2–7–07 Wednesday
Vol. 72 No. 25 Feb. 7, 2007

Pages 5595–5912

Federal Register

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.archives.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** *www.gpoaccess.gov/nara,* available through GPO Access, is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

For more information about GPO Access, contact the GPO Access User Support Team, call toll free 1-888-293-6498; DC area 202-512-1530; fax at 202-512-1262; or via e-mail at *gpoaccess@gpo.gov.* The Support Team is available between 7:00 a.m. and 9:00 p.m. Eastern Time, Monday–Friday, except official holidays.

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 72 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Printing Office, Washington DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

FEDERAL REGISTER WORKSHOP

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: Sponsored by the Office of the Federal Register.

WHAT: Free public briefings (approximately 3 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.

2. The relationship between the Federal Register and Code of Federal Regulations.

3. The important elements of typical Federal Register documents.

4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, February 13, 2007
9:00 a.m.–Noon

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Contents

Federal Register

Vol. 72, No. 25

Wednesday, February 7, 2007

Separate Parts In This Issue

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

7 CFR

Proposed Rules:
930.....5646

10 CFR
72.....5595

11 CFR
100.....5595

12 CFR
611.....5606
612.....5606
613.....5606
614.....5606
615.....5606

13 CFR
123.....5607

14 CFR
71 (6 documents) ...5607, 5608, 5609, 5610, 5611, 5612

Proposed Rules:
61.....5806
91.....5806
141.....5806

18 CFR
50.....5613
157.....5614
380.....5613

22 CFR
126.....5614

29 CFR
1603.....5616
1610.....5616

33 CFR
117.....5617
165.....5619

40 CFR
180 (2 documents) 5621, 5624

44 CFR
64.....5630

47 CFR
0.....5631
15.....5632

49 CFR
1515.....5632
1540.....5632
1572.....5632

50 CFR
223.....5633
404.....5642
635.....5633
648.....5643
679.....5644

Proposed Rules:
17.....5856
223.....5648
300.....5652
679.....5654

Rules and Regulations

Federal Register
Vol. 72, No. 25
Wednesday, February 7, 2007

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AH93

List of Approved Spent Fuel Storage Casks: NUHOMS HD® Addition; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Correcting amendment.

SUMMARY: This document corrects a final rule appearing in the **Federal Register** on December 11, 2006 (71 FR 71463) to add the NUHOMS® HD cask system to the list of approved spent fuel storage casks. This action is necessary to correct an erroneous date.

DATES: *Effective Date:* January 10, 2007.

FOR FURTHER INFORMATION CONTACT: Jayne McCausland, telephone 301–415–6219, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION: On December 11, 2006 (71 FR 71463), Certificate of Compliance 1030 was added to the list of approved spent fuel storage casks. The December 11, 2006, document contained an incorrect Certificate Expiration Date. This document corrects that date.

List of Subjects in 10 CFR Part 72

Administrative practice and procedure, Criminal penalties, Manpower training programs, Nuclear materials, Occupational safety and health, Penalties, Radiation protection, Reporting and recordkeeping requirements, Security measures, Spent fuel, Whistleblowing.

■ Accordingly, 10 CFR part 72 is corrected by making the following correcting amendment.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL, HIGH-LEVEL RADIOACTIVE WASTE AND REACTOR-RELATED GREATER THAN CLASS C WASTE

■ 1. The authority citation for 10 CFR part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951, as amended by Pub. L. 102–486, sec. 7902, 106 Stat. 3123 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168); sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); sec. 651(e), Pub. L. 109–58, 119 Stat. 806–810 (42 U.S.C. 2014, 2021, 2021b, 2111).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c), (d)). Section 72.46 also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Section 72.96(d) also issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2224 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

■ 2. In § 72.214, Certificate of Compliance 1030 is corrected by revising the Certificate Expiration date to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1030.

* * * * *

Certificate Expiration date: January 10, 2027.

* * * * *

Dated at Rockville, Maryland, this 1st day of February 2007.

For the Nuclear Regulatory Commission.

Michael T. Lesar,

Federal Register Liaison Officer.

[FR Doc. E7–2035 Filed 2–6–07; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL ELECTION COMMISSION

11 CFR Part 100

[Notice 2007–3]

Political Committee Status

AGENCY: Federal Election Commission.

ACTION: Supplemental Explanation and Justification.

SUMMARY: In November 2004, the Federal Election Commission (''FEC'') adopted new regulations codifying when an organization's solicitations generate ''contributions'' under the Federal Election Campaign Act (''FECA'' or ''the Act''), and consequently, require that organization, regardless of tax status, to register as a political committee with the FEC. Additionally, the Commission substantially revised its allocation regulations to require the costs of voter drives, certain campaign advertisements, and a political committee's general administrative costs be paid for in whole or in substantial part with funds subject to FECA's limits, prohibitions, and reporting requirements. Pursuant to *Shays* v. *FEC*, 424 F. Supp. 2d 100 (D.D.C. 2006) (*''Shays II''*), the Commission is publishing a supplemental Explanation and Justification to provide a more detailed explanation of (a) The basis for the measures it adopted and (b) the reasons it declined to revise the regulatory definition of ''political committee'' to single out organizations exempt from Federal taxation under section 527 of the Internal Revenue Code (''527 organizations'') for increased regulation. This document also discusses several recently resolved administrative matters that provide considerable guidance to all organizations regarding the receipt of contributions, making of expenditures, and political committee status.

EFFECTIVE DATE: February 7, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. J. Duane Pugh Jr., Acting Assistant General Counsel, or Ms. Margaret G. Perl, Attorney, 999 E Street, NW.,

Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Explanation and Justification

On November 23, 2004, following an extensive rulemaking process, the Commission adopted new regulations to ensure that organizations that participate in Federal elections conduct their activities in compliance with Federal law. This rulemaking generated an extraordinary amount of public engagement on the issue of when organizations should have to register with and report their activities to the FEC. The Commission received and considered over 100,000 written comments, including comments from approximately 150 Members of Congress, many political party organizations, hundreds of non-profit organizations, as well as academics, trade associations, and labor organizations. Additionally, the Commission heard testimony from 31 witnesses during two days of public hearings on April 14 and 15, 2004.[1]

At the end of this process, the Commission amended its regulations in two significant ways. First, the Commission adopted a regulation codifying when an organization's solicitations generate ''contributions'' under FECA, and consequently, may require an organization to register as a political committee with the FEC. Second, the Commission substantially revised its allocation regulations to require that voter drives and campaign ads that target Federal elections, as well as a substantial portion of a political committee's administrative costs, be paid for with funds subject to Federal limits, prohibitions, and reporting requirements. *See Final Rules on Political Committee Status, Definition of Contribution, and Allocation for Separate Segregated Funds and Nonconnected Committees,* 69 FR 68056, 68056–63 (Nov. 23, 2004) (*''2004 Final Rules''*); *see also* 11 CFR 100.57 and 106.6. The *2004 Final Rules* also explained the Commission's decision not to re-define the terms ''political committee'' in 11 CFR 100.5 and ''expenditure'' in 11 CFR 100.110 through 100.154, including the Commission's decision not to establish a separate political committee definition singling out 527 organizations.[2] *See 2004 Final Rules*, 69 FR at 68063–65. The 2004 Final Rules took effect January 1, 2005. *Id.* at 68056.

In 2004, an action was brought before the U.S. District Court of the District of Columbia challenging the Commission's decision not to revise the regulatory definition of ''political committee.'' *See Shays II*, 424 F. Supp. 2d at 114–17.[3] Plaintiffs sought a court order directing the Commission to promulgate a rule specifically addressing the political committee status of all 527 organizations. *Id.* at 116. The district court rejected the plaintiffs' request to order the Commission to commence a new rulemaking, concluding that nothing in FECA, Congress's most-recent amendments in the Bipartisan Campaign Reform Act of 2002 (''BCRA''),[4] or the Supreme Court's decision in *McConnell* v. *FEC*, 540 U.S. 93 (2003), required the Commission to adopt such rules. *Shays II*, 424 F. Supp. 2d at 108. Case law, the *Shays II* court explained, demonstrates ''that a statutory mandate is a crucial component to a finding that an agency's reliance on adjudication [is] arbitrary and capricious.'' *Id.* at 114. The district court found, however, that the Commission ''failed to present a reasoned explanation for its decision'' not to regulate 527 organizations specifically by virtue of their status under the Internal Revenue Code, and remanded the case to the Commission ''to explain its decision or institute a new rulemaking.'' *Id.* at 116–17.

The Commission did not appeal the district court's ruling. Instead, the Commission is issuing this supplemental Explanation and Justification to explain its decision not to use tax law classifications as a substitute for making determinations of political committee status under FECA, as construed by the courts. By adopting a new regulation under which any organization may be required to register as a political committee and by tightening the rules governing how political committees fund activity for the purpose of influencing Federal elections, the Commission has acted to prevent circumvention not by just 527 organizations, but by groups of all kinds. As further explained, the Commission's decision not to single out 527 organizations is entirely consistent with the statutory scheme, Supreme Court precedent, and Congressional action regarding 527 organizations. Political committee status, whether articulated in FECA, Supreme Court interpretations of FECA, or the Commission's regulations, must be applied and enforced by the Commission through a case-by-case analysis of a specific organization's conduct. Existing regulations, bolstered by the adoption of the *2004 Final Rules,* leave the Commission with a very effective mechanism for addressing claims that organizations of any tax status should be registered as political committees under FECA. The Commission's recent enforcement experience confirms this conclusion.

Parts A and D of this document explain the framework for establishing political committee status under FECA, as interpreted by the Supreme Court. Parts B and C explain why reliance on a group's tax exempt status under section 527 of the Internal Revenue Code cannot substitute for an analysis of the group's conduct. Part E discusses the new and amended rules the Commission adopted in 2004, which codified an additional trigger for political committee status and increased the Federal funding requirements to participate in certain election-related activities. Finally, Part F describes the significance of several recently resolved enforcement matters that illustrate the sufficiency of the legal basis for the Commission's political committee status determinations.

A. FECA Provides a Specific, Conduct-Based Framework for Establishing Political Committee Status

Since its enactment in 1971, FECA has placed strict limits and source prohibitions on the contributions received by organizations that are defined as political committees. Under the Act, an organization's conduct has always been the basis for determining whether it is required to register and abide by the Act's requirements as a political committee. Likewise, since its enactment in 1971, the determination of political committee status has taken place on a case-by-case basis. FECA defines a ''political committee'' as ''any committee, club, association, or other group of persons which receives

[1] The comments and transcripts of the public hearing are available at *http://www.fec.gov/law/RulemakingArchive.shmtl* under ''Political Committee Status (2004)''.

[2] Under the Internal Revenue Code, a 527 organization is ''a party, committee, association, fund, or other organization (whether or not incorporated) organized and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.'' 26 U.S.C. 527(e)(1). The ''exempt function'' of 527 organizations is the ''function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization,'' or the election or selection of presidential or vice presidential electors. 26 U.S.C. 527(e)(2). Virtually all political committees that register with the Commission under FECA are also tax exempt under section 527 of the Internal Revenue Code, including political party committees, authorized campaign committees of candidates, separate segregated funds, and nonconnected committees. *See* 11 CFR 1005.

[3] Documents related to this litigation are available at *http://www.fec.gov/law/litigation_CAA_Alpha.shtml#shays_04*.

[4] Pub. L. 107–155, 116 Stat. 81 (Mar. 7, 2002).

contributions aggregating in excess of $1,000 during a calendar year or which makes expenditures aggregating in excess of $1,000 during a calendar year.'' *See* 2 U.S.C. 431(4)(A). FECA further defines the terms ''contribution'' and ''expenditure,'' limiting these terms to those receipts and disbursements made ''for the purpose of influencing any election for Federal office.'' 2 U.S.C. 431(8) and (9). Commission regulations first promulgated in 1975 essentially repeat FECA's definition of ''political committee.'' 11 CFR 100.5(a).[5]

Congress has not materially amended the definition of ''political committee'' since the enactment of section 431(4)(A) in 1971, nor has Congress at any time since required the Commission to adopt or amend its regulations in this area. Indeed, in 2002, when Congress made sweeping changes in campaign finance law pursuant to BCRA, it left the definition of ''political committee'' undisturbed and political committee status to be determined on a case-by-case basis.

To address constitutional concerns raised when FECA was adopted, the Supreme Court added two additional requirements that affect the statutory definition of political committee. First, the Supreme Court held, when applied to communications made independently of a candidate or a candidate's committee, the term ''expenditure'' includes only ''expenditures for communications that in express terms advocate the election or defeat of a clearly identified candidate for federal office.'' *Buckley* v. *Valeo*, 424 U.S. 1, 44, 80 (1976).[6] Second, the Supreme Court mandated that an additional hurdle was necessary to avoid Constitutional vagueness concerns; only organizations whose ''major purpose'' is the nomination or election of a Federal candidate can be considered ''political committees'' under the Act. *Id.* at 79. The court deemed this necessary to avoid the regulation of activity ''encompassing both issue discussion and advocacy of a political result.'' *See, e.g.*, *Buckley*, 424 U.S. at 79; *FEC* v. *Massachusetts Citizens for Life, Inc.*, 479 U.S. 238, 262 (1986) (*''MCFL''*).

Neither BCRA, *McConnell*, nor any other legislative, regulatory, or judicial action has eliminated (1) The Supreme Court's express advocacy requirement for expenditures on communications made independently of a candidate or (2) the Court's major purpose test. In its 2003 *McConnell* decision, the Supreme Court implicitly endorsed the major purpose framework to uphold BCRA's regulation of political party activity against vagueness concerns. *See McConnell*, 540 U.S. at 170 n.64 (''This is particularly the case here, since actions taken by political parties are presumed to be in connection with election campaigns. *See Buckley*, 424 U.S. at 79, 96 S. Ct. 612 (noting that a general requirement that political committees disclose their expenditures raised no vagueness problems because the term 'political committee' 'need only encompass organizations that are under the control of a candidate or the major purpose of which is the nomination or election of a candidate * * *')'').

McConnell also addressed the *Buckley* expenditure framework, finding, ''the express advocacy limitation, in both the expenditure and disclosure contexts, was the product of statutory interpretation rather than a constitutional command.'' *McConnell*, 540 U.S. at 191–92. However, the Court made it clear that FECA continued to contain the express advocacy limitation as to expenditures on communications made independently of a candidate, because Congress, in enacting BCRA, modified the limitation only insofar as it applied to ''electioneering communications.'' The Court found:

> Since our decision in *Buckley*, Congress' power to prohibit corporations and unions from using funds in their treasuries to finance advertisements expressly advocating the election or defeat of candidates has been firmly embedded in our law * * * Section 203 of BCRA amends [2 U.S.C. 441b(b)(2)] to extend this rule, which previously applied only to express advocacy, to all 'electioneering communications' covered by the definition of that term in [2 U.S.C. 434(f)(3)].

McConnell, 540 U.S. at 203–04.

Congress did not amend the definition of expenditure in BCRA, and in fact, specified that ''electioneering communications'' are not expenditures under the Act. 2 U.S.C. 434(f)(1) and (2) (treating electioneering communications as ''disbursements''). Accordingly, while BCRA, as interpreted by *McConnell*, did not extend *Buckley's* express advocacy limitation to the regulation of ''electioneering communications,'' it also did not alter that limitation as to expenditures on communications made independently of a candidate. Absent future Congressional action altering the definition of ''expenditure,'' the Supreme Court's limitation of expenditures, on communications made independently of a candidate, to ''express advocacy'' continues to apply.

Therefore, determining political committee status under FECA, as modified by the Supreme Court, requires an analysis of both an organization's specific conduct—whether it received $1,000 in contributions or made $1,000 in expenditures—as well as its overall conduct—whether its major purpose is Federal campaign activity (*i.e.*, the nomination or election of a Federal candidate). Neither FECA, its subsequent amendments, nor any judicial decision interpreting either, has substituted tax status as an acceptable proxy for this conduct-based determination.

The Commission has promulgated regulations defining in detail what constitutes a ''contribution'' and an ''expenditure.'' *See* 11 CFR 100.51 to 100.94 and 100.110 to 100.155. Many administrative actions, including the recently resolved actions against several 527 organizations that are described in Part F below, include substantial investigations and case-by-case analyses and determinations of whether a group's fundraising generated ''contributions'' and whether payments for its communications made independently of a candidate constituted ''expenditures,'' as alternative prerequisites to a determination that a group is a political committee, prior to any consideration of the group's major purpose. Additional regulations defining ''contribution'' and ''expenditure'' would not obviate the need for a case-by-case investigation and determination in a Commission enforcement proceeding. Neither would a regulation defining ''major purpose'' that singled out 527 organizations, as the *Shays II* plaintiffs seek, obviate the need for case-by-case investigations and determinations in the Commission's enforcement process regarding the organization's major purpose.

B. Section 527 Tax Status Does Not Determine Whether an Organization Is a Political Committee Under FECA

527 organizations are so named for section 527 of the Internal Revenue Code, a section that exempts certain activities from taxation. An organization's election of section 527

[5] *See* H.R. Doc. No. 97–293, at 7–8 and 29–30 (1975) addressing 11 CFR 100.14 (1976), which was recodified as 11 CFR 100.5 in 1980. *See* 45 FR 15080 (Mar. 7, 1980).

[6] The Supreme Court applies a different analysis to coordinated expenditures. *See Buckley,* 424 U.S. at 46–47 (''They argue that expenditures controlled by or coordinated with the candidate and his campaign might well have virtually the same value to the candidate as a contribution and would pose similar dangers of abuse. yet such controlled or coordinated expenditures are treated as contributions rather than expenditures under the Act.''). *Cf.* AO 2006–20 Unity '08 (finding monies spent on ballot access through petition drives by an organization supporting only two candidates, both yet to be selected, one for the office of President of the United States and one for the office of Vice President, are expenditures).

tax status is not sufficient evidence in itself that the organization satisfies FECA and the Supreme Court's contribution, expenditure, and major purpose requirements. As stated by a commenter, ''All that 527 status means is that the organization is exempt from federal income tax to the extent it spends political income on political activities * * * All federal political committees registered with the FEC are 527 organizations. So are the Republican National Committee and the Democratic National Committee. So are John Kerry for President, Inc. and Bush-Cheney '04, Inc. So is every candidate's campaign committee right down to school board and dogcatcher.'' Thus, virtually all political committees are 527 organizations. It does not necessarily follow that all 527 organizations are or should be registered as political committees.

The IRS's requirements for an organization to be entitled to the tax exemption under section 527 are based on a different and broader set of criteria than the Commission's determination of political committee status. *See* note 2 above. Section 527 exempts political organizations from tax on ''exempt function'' income, where the Internal Revenue Code would impose tax on such activity when conducted by other non-profit organizations, such as groups organized under section 501(c)(4) (social welfare organizations), 501(c)(5) (labor organizations), and 501(c)(6) (business leagues). *See* 26 U.S.C. 527(c)(1) and (f)(1). Accordingly, the definition of ''exempt function'' is central to the reach of section 527. ''Exempt function'' is defined as the ''function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors.'' 26 U.S.C. 527(e)(2).

By definition, 527 organizations may engage in a host of State, local, and non-electoral activity well outside the Commission's jurisdiction. As noted by several commenters, the broad range of groups availing themselves of the 527 exemption include, but are not limited to the following: All Federal, State, and local candidate campaign committees and party entities; Federal, State, and local political action committees; caucuses and associations of State or local public officials; newsletter funds operated by Federal, State, and local public officials; funds set up to pay ordinary business expenses of a public officeholder; political party officer committees; and groups seeking to influence the appointment of judicial and executive branch officials. A forthcoming tax law article states:

> Once section 527 is placed in proper context, it becomes clear that the tax law is not a very good mechanism for differentiating between election-focused and ideological groups. Because of its unique policies and idiosyncrasies, the tax law has an exceptionally broad definition of ''political organization,'' one that has the potential to capture ideological as well as partisan organizations. Furthermore, section 527 should not be understood to convey any real tax benefits to organizations that self-identify. Accordingly, the reformers' mission to use section 527 as a campaign finance instrument is misguided.

Gregg D. Polsky, *A Tax Lawyer's Perspective on Section 527 Organizations*, 28 Cardozo L. Rev. (forthcoming Feb. 2007).

The IRS has specifically determined that exempt function activity can include disbursements for Federal electoral activity that does not constitute express advocacy. IRS Revenue Ruling 2004–6 states (at 4): ''[w]hen an advocacy communication explicitly advocates the election or defeat of an individual to public office, the expenditure clearly is for an exempt function under [section] 527(e)(2). However, when an advocacy communication relating to a public policy issue does not explicitly advocate the election or defeat of a candidate, all the facts and circumstances need to be considered to determine whether the expenditure is for an exempt function under [section] 527(e)(2).'' Rev. Rul. 04–6, 2004–1 C.B. 328. Accordingly, the IRS structure presumes section 527 organizations will engage in non-express advocacy activities. Indeed, organizations could easily qualify for 527 status without ever making expenditures for express advocacy. However, as discussed above, that activity is outside of the Commission's regulatory scope under *Buckley's* express advocacy limitation for expenditures on communications made independently of a candidate. *See Buckley*, 424 U.S. at 44; *see also* 2 U.S.C. 431(8) and (9) (defining contribution and expenditure as ''for the purpose of influencing any election for Federal office'').

The IRS ''facts and circumstances'' test, if applied to FECA, clearly would violate the Supreme Court's Constitutional parameters, established in *Buckley*, and reiterated in *MCFL* and *McConnell*, that campaign finance rules must avoid vagueness. See *Buckley*, 424 U.S. at 40–41; MCFL, 479 U.S. at 248–49; *McConnell*, 540 U.S. at 103. Because the tax code definitions arise in the context of a grant of exemption, which is viewed as a form of subsidy to the organization, a lower level of scrutiny is applied than when the government regulates or prohibits outright certain types of speech. *See, e.g., Regan* v. *Taxation With Representation*, 461 U.S. 540, 549–50 (1983) (upholding limitation on lobbying by 501(c)(3) organizations); *Christian Echoes Nat'l Ministry, Inc.* v. *United States*, 470 F.2d 849, 857 (10th Cir. 1972) (upholding 501(c)(3) ban on campaign intervention). As one commenter noted:

> The Internal Revenue Code (IRC) and its accompanying regulations offer several different tests for what constitutes political activity for tax-exempt organizations (including 527 organizations), but all of these tests boil down to a vague ''facts and circumstances'' standard. While constitutionally adequate * * * for the enforcement of tax laws, the inherent uncertainty created by such a contextual, subjective standard renders it wholly inadequate to the task of providing a predictable standard for those required to comply with [F]ederal election law * * * FECA regulates core political speech and imposes criminal penalties for violations. Thus, FECA is especially intolerant of vague standards. As the court explained in *Buckley*: ''Due process requires that a criminal statute provide adequate notice to a person of ordinary intelligence that his contemplated conduct is illegal, for 'no man shall be held criminally responsible for conduct which he could not reasonably understand to be proscribed.' When First Amendment rights are involved, an even 'greater degree of specificity' is required.''

As stated by a commenter, ''While IRC political *organizations* and FECA political *committees* seem to have some similarities, [section] 527 'exempt function' activity is much broader than the activity that defines FECA political committees. Consequently, IRS regulations provide no guidance for FEC rulemaking.'' In fact, neither FECA, as amended, nor any judicial decision interpreting it, has substituted tax status for the conduct-based determination required for political committee status.

As discussed further below in Part F, the Commission's enforcement experience illustrates the inadequacy of tax classification as a measure of political committee status. The Commission recently completed six matters, including five organizations that were alleged to have failed to register as political committees.[7] The

[7] *See* Press Release, Federal Election Commission, FEC Collects $630,000 in Civil Penalties from Three 527 Organizations (Dec. 13, 2006), available at *http://www.fec.gov/press/press2006/20061213murs.html*; Press Release, Federal Election Commission, Freedom Inc. Pays $45,000 Penalty for Failing to Register as Political Committee (Dec. 20, 2006), available at *http://www.fec.gov/press/*

Commission reached conciliation agreements with five of these organizations—four 527 organizations and one 501(c)(4) organization—in which the organizations did not contest the Commission's determination that they had violated FECA by failing to register as political committees. *See* Matters Under Review (''MURs'') 5511 and 5525 (Swiftboat Veterans and POWs for Truth (''Swiftboat Vets'')); 5753 (League of Conservation Voters 527 and 527 II (''League of Conservation Voters'')); 5754 (MoveOn.org Voter Fund); 5492 (Freedom, Inc.). In the sixth matter, the Commission determined that a 527 organization was not a political committee under the statutory requirements, and dismissed the matter. *See* MUR 5751 (The Leadership Forum). The Commission has demonstrated through the finding of political committee status for a 501(c)(4) organization and the dismissal of a complaint against a 527 organization, that tax status did not establish whether an organization was required to register with the FEC. Rather, the Commission's findings were based on a detailed examination of each organization's contributions, expenditures, and major purpose, as required by FECA and the Supreme Court.

Courts have cautioned the Commission against assuming ''the compatibility of the IRS's enforcement * * * and FECA's requirements.'' *See Shays* v. *FEC*, 337 F. Supp. 2d 28, 128 (D.D.C. 2004) (*''Shays I''*). The Commission is instead obligated to perform a detailed review of differences in tax and campaign finance law provisions rather than adopting the former as a proxy for the latter. *Id.* The U.S. District Court recently reminded the Commission: ''It is the FEC, not the IRS, that is charged with enforcing FECA.'' *Shays I*, 337 F. Supp. 2d at 126. The detailed comparison of the Internal Revenue Code and FECA provisions required by *Shays I* demonstrates that the ''exempt function'' standard of section 527 is not co-extensive with the ''expenditure'' and ''contribution'' definitions that trigger political committee status. Therefore, the use of the Internal Revenue Code classification to interpret and implement FECA is inappropriate.

C. Congress Has Consistently Affirmed the Existing Statutory Framework and Specifically Refused To Require All 527 Organizations To Register as Political Committees

While Congress has repeatedly enacted legislation governing 527 organizations, it has specifically rejected every effort, including those by some of the *Shays II* plaintiffs,[8] to classify organizations as political committees based on section 527 status. In refusing to enact such legislation, Congress fully recognized that some 527 organizations not registered with the Commission were, and would continue to be, involved with Federal elections. Nevertheless, in each instance in which Congress regulated 527 organizations, whether through amendments to the Internal Revenue Code or FECA, it (a) Chose not to address the political committee status of these organizations, (b) left the reporting obligations in the hands of the IRS, and (c) did not direct the Commission to adopt revised regulations.

1. Congress Amended the Internal Revenue Code To Create a Reporting Scheme for 527 Organizations That are Not Political Committees Under FECA

In 2000, Congress passed a bill requiring section 527 organizations that are not required to register as political committees under FECA to register and report their financial activity with the IRS. *See* 26 U.S.C. 527(i)(6), (j)(5)(A); Public Law 106–230 (2000). Congress ordered the IRS to disclose this information publicly on a searchable database within 48 hours of receipt, requirements matching the FEC's disclosure obligations. *See* 26 U.S.C. 527(k); 2 U.S.C. 434(a)(11)(B) and 438a.[9] At the same time, Congress considered, but rejected, alternative bills that would have explicitly required the Commission to regulate all 527 organizations. *See, e.g.*, H.R. 3688, 106th Cong. (2000); S. 2582, 106th Cong. (2000); *see also* H.R. Rep. No. 106–702 (2000). The alternative House bill was co-sponsored by two of the *Shays II* plaintiffs. Additionally, Congress took no other action to otherwise alter the statutory framework for determining political committee status.

In 2002, Congress modified the section 527 reporting requirements to exempt organizations that were exclusively involved in State and local elections from having to report with the IRS. *See* 26 U.S.C. 527(i)(5)(C), (j)(5)(C); Income Tax Notification and Return Requirements—Political Committees Act, Public Law 107–276, 116 Stat. 1929 (2002). Those 527 organizations that were involved in Federal elections, but that did not qualify as ''political committees'' under FECA, continued to have to report their activities to the IRS. *See* Public Law 107–276. This legislation was passed only a few months after BCRA, which, as discussed below, did not change the requirements for political committee status of 527 organizations. As stated by a commenter, ''Congress explicitly recognized the differences in intent and scope between the Internal Revenue Code and the Federal Election Campaign Act when it drafted two separate statutes to address the respective subjects; if Congress had intended the two bodies of law to be congruous, Congress would have passed congruous provisions at the outset.'' If, as some commenters suggested, all 527 organizations not exclusively involved in State and local elections are required by FECA to register as political committees, then the 2002 amendments to 26 U.S.C. 527 would have meant that no 527 organizations would continue to report to the IRS. Such an interpretation of the two statutes would effectively nullify the statutory requirement to report to the IRS.

These two provisions were passed, as noted by a commenter, ''[a]gainst a widely publicized backdrop of news reports concerning non-federal [section] 527 groups,'' yet, ''Congress required these organizations * * * to register and report with the IRS * * * Congress was well aware that [section] 527 organizations that were not political committees could affect Federal as well as other elections.'' The legislative history of the 2000 amendment confirms the commenter's assessment:

> These enhanced disclosure and reporting rules are intended to make no changes to the present-law substantive rules regarding the extent to which tax-exempt organizations are permitted to engage in political activities. Thus, the Committee bill is not intended to alter the involvement of such organizations in the political process, but rather it is intended to shed sunlight on these activities so that the general public can be informed as to the types and extent of activities in which such organizations engage.

H.R. Rep. No. 106–702, at 14 (2000). Senator Lieberman, a principal author of the legislation, stated, ''nor does [the bill] force any group that does not currently have to comply with FECA or disclose information about itself to do

press2006/20061220mur.html; Press Release, Federal Election Commission, FEC Completes Action on Two Enforcement Cases (Dec. 22, 2006), available at *http://www.fec.gov/press/press2006/20061222mur.html.*

[8] In *Shays II*, the case filed by Representatives Shays and Meehan was consolidated with a similar case filed by Bush-Cheney '04 challenging the Commission's 2004 rulemaking. *See Shays II*, 424 F. Supp. 2d at 104–05.

[9] *See* IRS Political Organization Disclosure database, *available at http://forms.irs.gov/politicalOrgsSearch/search/basicSearch.jsp.*

either of those things.'' *See* Statement of Sen. Lieberman, 146 Cong. Rec. S5996 (June 28, 2000). Representative Archer stated, ''[T]his bill does nothing but require disclosure. It does not change anything as to how much money can be given or how it can be used, any of those other substantive things in the law.'' *See* Statement of Rep. Archer, 146 Cong. Rec. H5285 (June 27, 2000).

A rule hinging on section 527 tax status could frustrate this separate reporting scheme created by Congress in the 2000 and 2002 amendments to section 527. It could also have the effect of reducing disclosure. If a rule singled out 527 organizations, those entities could then either shift the same election-related conduct to a related section 501(c)(4) organization that shares common management, or perhaps even reorganize as a section 501(c)(4) organization in order to avoid a rule that singled out 527 organizations.[10] Several commenters predicted that 527 organizations would do so. Because section 501(c)(4) of the Internal Revenue Code requires almost no disclosure of receipts and disbursements, migration of political conduct to section 501(c)(4) groups would reduce the amount of information disclosed to the public.[11]

2. BCRA Amended FECA and Addressed Federal Activity of 527 Organizations Without Requiring Political Committee Registration

In BCRA, Congress directly addressed the Federal activity of unregistered 527 organizations, but again, declined to take any other action to regulate 527 organizations as political committees or otherwise alter the existing political committee framework. BCRA prohibits national, State and local political parties from soliciting for, or donating to ''an organization described in section 527 of [the Internal Revenue] Code (*other than a political committee*, a State, district, or local committee of a political party, or the authorized campaign committee of a candidate for State or local office).'' *See* 2 U.S.C. 441i(d)(2) (emphasis added). This provision explicitly confirms Congress's intent to retain separate regimes for those 527 organizations that must register with the Commission as political committees and those 527 organizations that are not required to register as political committees. Furthermore, if Congress had believed that all 527 organizations (other than those operating at the State level) were political committees, this BCRA prohibition would be superfluous.

BCRA also included a limited exception from the prohibition on corporations making electioneering communications for 527 organizations (and 501(c)(4) organizations), as long as they were funded exclusively from individual contributions. *See* 2 U.S.C. 441b(c)(2). This exception was altered by the Wellstone amendment to BCRA, codified at 2 U.S.C. 441b(c)(6), which strictly limited the scope of the exception. Although the exception was amended, this provision illustrates Congress's knowledge that 527 organizations were raising funds outside FECA's individual contribution limits and source prohibitions to produce communications that referenced Federal candidates. And BCRA makes two explicit determinations: electioneering communications are not themselves ''expenditures'' (even when conducted by 527 organizations) and such communications may not be paid for with corporate or labor union funds during specific pre-election periods. Had Congress determined that such communications constituted expenditures that required registration as a political committee, the reporting requirements and funding restrictions for the electioneering communications provisions would have been duplicative and meaningless. Yet, Congress chose to leave in place its decisions in 2000 and 2002 that some 527 organizations should report their activities to the IRS, rather than register with the FEC.

BCRA's legislative history further confirms Congress's recognition that 527 organizations (as well as 501(c)(4) organizations) could engage in some Federal campaign activity and yet not have to register as political committees. In defending BCRA's approach to 527 organizations, Senator Snowe stated:

> [S]ome of our opponents have said that we are simply opening the floodgates in allowing soft money to now be channeled through these independent groups for electioneering purposes. To that, I would say that this bill would prohibit members from directing money to these groups to affect elections, so that would cut out an entire avenue of solicitation for funds, not to mention any real or perceived ''quid pro quo.''

See Statement of Sen. Snowe, 148 Cong. Rec. S2136 (Mar. 20, 2002). Senator Wellstone noted that 527 and 501(c)(4) groups ''already play a major role in our elections'' and acknowledged that soft money would shift from political parties to these organizations. *See* Statement of Sen. Wellstone, 147 Cong. Rec. S2846–47 (Mar. 26, 2001). Senator Breaux stated that 501(c)(4) and 527 organizations would continue to be able to raise unrestricted money to be used in Federal elections. *See* Statement of Sen. Breaux, 147 Cong. Rec. S2885–86 (Mar. 26, 2001). Senator McConnell, who led the opposition to the passage of BCRA, was clear on this point as well: ''this bill will greatly weaken the parties and shift those resources to outside groups that will continue to engage in issue advocacy, as they have a constitutional right to do, with unlimited and undisclosed soft money.'' *See* Statement of Sen. McConnell, 148 Cong. Rec. S2160 (Mar. 20, 2002). As stated in a comment from a Governor who is also a former Member of Congress:

> That perceived evil, the direct personal involvement of [F]ederal and party officials in the raising of ''soft money'' funds, is not present with respect to donations made to non-profit organizations—whether organized under section 527 or under section 501(c) of the Internal Revenue Code—acting *independently* from any [F]ederal officeholder, candidate or political party. Congress did not choose, in BCRA, to impose limits on those desiring to provide financial support to such non-profit organizations. Congress was well aware of the existence and activities of non-political committee 527 organizations and yet the BCRA did not elect to address such organizations other than to impose a prohibition on [F]ederal officeholders actively participating in the solicitation of funds for such groups.

Based on this history of Congressional action regarding section 527 and the enactment of BCRA, the Commission concludes that changing the regulatory definition of ''political committee'' to rely explicitly upon section 527 tax status would not be consistent with the Commission's statutory authority. The Commission reaches this conclusion regarding the scope of its regulatory authority because Congress previously considered and rejected bills that would have changed the political committee status of 527 organizations. *See FDA* v. *Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 143 (2000) (''[A] specific policy embodied in a later federal statute should control our construction of the [earlier] statute, even though it ha[s] not been expressly amended.''

[10] As commenters noted, a 501(c)(4) organization may engage in the same political campaign activities as a 527 organization, as long as these activiteis do not constitute the 501(c)(4) organization's ''primary purpose'' as determined by the IRS.

[11] Only 501(c)(4) organizations with $25,000 or more in annual gross receipts must file annual tax returns with the IRS. *See* 26 U.S.C. 6012(a)(6); Judith Kindell & John Francis Reilly, *Election Year Issues:* IRS Exempt Organizations Continuing Professional Education Text at 444, 470–71 (2002), *available at http://www.irs.gov/charities/nonprofits/article/0,,id=155031,00.html* (last visited Jan. 31, 2007). The required annual return (Form 990) includes a line for total amount of ''direct and indirect political expenditures'' without requiring any further breakdown of the expenditure amount. *See* IRS Form 990 Line 81a. Individual donors need not be disclosed by 501(c)(4) organizations.

(*quoting United States* v. *Estate of Romani*, 523 U.S. 517, 530–31 (1998))).

Furthermore, when Congress revises a statute, its decision to leave certain sections unamended constitutes at least acceptance, if not explicit endorsement, of the preexisting construction and application of the unamended terms. *See Cook County, Illinois* v. *United States ex rel. Chandler*, 538 U.S. 119, 132 (2003); *Cottage Sav. Ass'n* v. *Comm'r*, 499 U.S. 554, 561–62 (1991); *Asarco Inc.* v. *Kadish*, 490 U.S. 605, 632 (1989).

During the 2004 rulemaking, the Commission received a comment signed by 138 Members of the House of Representatives, and a similar comment signed by 19 Senators. Both comments stated, ''the proposed rules before the Commission would expand the reach of BCRA's limitations to independent organizations in a manner wholly unsupported by BCRA or the record of our deliberations on the new law.'' The comment submitted by the House Members further stated:

> More generally, the rulemaking is concerned with new restrictions on ''527'' organizations, primarily through the adoption of new definitions of an ''expenditure.'' Congress, of course, did not amend in BCRA the definition of ''expenditure'' or, for that matter, the definition of ''political committee.'' Moreover, while BCRA reflects Congress' full awareness of the nature and activities of ''527s,'' it did not consider comprehensive restrictions on these organizations like those in the proposed rules. There has been absolutely no case made to Congress, or record established by the Commission, to support any notion that tax-exempt organizations and other independent groups threaten the legitimacy of our government when criticizing its policies. We believe instead that more, not less, political activity by ordinary citizens and the associations they form is needed in our country.[12]

In upholding BCRA, the Supreme Court was also well aware that BCRA's new provisions would not reach all interest group Federal political activity. The *McConnell* Court observed that, unlike political parties, ''[i]nterest groups, however, remain free to raise soft money to fund voter registration, [get-out-the-vote] activities, mailings, and broadcast advertising (other than electioneering communications).'' *McConnell*, 540 U.S. at 187–88.

Finally, at least two new bills requiring 527 organizations to register as political committees were recently considered in Congress. *See, e.g.*, H.R. 513, 109th Cong. (2006); S. 2828, 108th Cong. (2004). The introduction and consideration of these bills, including one supported by two of the *Shays II* plaintiffs, demonstrates Congress's and these plaintiffs' recognition that Congress has not acted in this area. As with all past Congressional attempts to regulate all 527s as political committees, Congress did not adopt these bills, or any other bills altering the political committee framework. While the Commission is authorized to regulate in order to give substance to otherwise ambiguous provisions, ''[a] regulation, however, may not serve to amend a statute, or to add to the statue something which is not there.'' *See Iglesias* v. *United States*, 848 F.2d 362, 366 (2d Cir. 1988) (citations omitted).

Thus, Congressional action regarding 527 organizations provides no basis for the Commission to revise FECA and the Supreme Court's requirements for political committee status by creating a separate political committee definition singling out 527 organizations. Rather, the Commission's decision to reject proposed rules based on section 527 tax status is consistent with all past Congressional action addressing 527 organizations.

D. Applying the Major Purpose Doctrine, a Judicial Construct Established Thirty Years Ago, Requires a Case-by-Case Analysis of an Organization's Conduct

The *Shays II* court expressed concern that, in the absence of a regulation regarding the major purpose doctrine, the Commission was not providing clear guidance to groups as to when they must register as a political committee. *See Shays II*, 424 F. Supp. 2d at 115. Applying the major purpose doctrine, however, requires the flexibility of a case-by-case analysis of an organization's conduct that is incompatible with a one-size-fits-all rule.

The Supreme Court has held that, to avoid the regulation of activity ''encompassing both issue discussion and advocacy of a political result'' only organizations whose major purpose is Federal campaign activity can be considered political committees under the Act. *See, e.g., Buckley*, 424 U.S. at 79; *MCFL*, 479 U.S. at 262. Thus, the major purpose test serves as an additional hurdle to establishing political committee status. Not only must the organization have raised or spent $1,000 in contributions or expenditures, but it must additionally have the major purpose of engaging in Federal campaign activity.

The Supreme Court has made it clear that an organization can satisfy the major purpose doctrine through sufficiently extensive spending on Federal campaign activity. *See MCFL*, 479 U.S. at 262 (explaining that a section 501(c)(4) organization could become a political committee required to register with the Commission if its ''independent spending become[s] so extensive that the organization's major purpose may be regarded as campaign activity'').

An analysis of public statements can also be instructive in determining an organization's purpose. *See, e.g., FEC* v. *Malenick*, 310 F. Supp. 2d 230, 234–36 (D.D.C. 2004) (court found organization evidenced its major purpose through its own materials which stated the organization's main goal of supporting the election of the Republican Party candidates for Federal office and through efforts to get prospective donors to consider supporting Federal candidates); *FEC* v. *GOPAC*, Inc., 917 F. Supp. 851, 859 (D.D.C. 1996) (''organization's [major] purpose may be evidenced by its public statements of its purpose or by other means''); Advisory Opinion 2006–20 (Unity 08) (organization evidenced its major purpose through organizational statements of purpose on Web site). Because such statements may not be inherently conclusive, the Commission must evaluate the statements of the organization in a fact-intensive inquiry giving due weight to the form and nature of the statements, as well as the speaker's position within the organization.

The Federal courts' interpretation of the constitutionally mandated major purpose doctrine requires the Commission to conduct investigations into the conduct of specific organizations that may reach well beyond publicly available advertisements. *See, e.g., Malenick*, 310 F. Supp. 2d at 234–36 (examining organizations' materials distributed to prospective donors). The Commission may need to examine statements by the organization that characterize its activities and purposes. The Commission may also need to evaluate the organization's spending on Federal campaign activity, as well as any other spending by the organization. In addition, the Commission may need to examine the organization's fundraising appeals.

Because *Buckley* and *MCFL* make clear that the major purpose doctrine requires a fact-intensive analysis of a group's campaign activities compared to its activities unrelated to campaigns, any rule must permit the Commission

[12] The Commission also received a comment signed by 14 members of the Congressional Hispanic Caucus who opposed the proposed changes to the regulations based on possible adverse effects on grassroots voter mobilization efforts. This comment is available at *http://www.fec.gov/pdf/nprm/political_comm_status/mailed/57.pdf.*

the flexibility to apply the doctrine to a particular organization's conduct. After considering these precedents and the rulemaking record, the Commission concluded that none of the competing proposed rules would have accorded the Commission the flexibility needed to apply the major purpose doctrine appropriately. Therefore, the Commission decided not to adopt any of the proposed amendments to section 100.5.[13]

However, even if the Commission were to adopt a regulation encapsulating the judicially created major purpose doctrine, that regulation could only serve to limit, rather than to define or expand, the number or type of organizations regarded as political committees. The major purpose doctrine did not supplant the statutory ''contribution'' and ''expenditure'' triggers for political committee status, rather it operates to limit the reach of the statute in certain circumstances.

Moreover, any perceived shortcomings with the enforcement process identified by the Shays II court would not be remedied by a change in the regulatory definition of ''political committee.'' [14] Any revised rule adopted by the Commission would still have to be interpreted and applied through the very same statutory enforcement procedures as currently exist. In fact, all of the rules proposed in 2004 would have required that factual determinations be made through the enforcement process. *See, e.g.*, proposed 11 CFR 100.5(a)(2)(iv), *Notice of Proposed Rulemaking on Political Committee Status*, 69 FR 11736, 11748, 11757 (Mar. 11, 2004) (exemptions limited to 527 organizations that are formed ''solely for the purpose of'' supporting a non-Federal candidate or influencing selection of individuals to non-elective office). Even if the Commission had simply adopted a rule in 2004 that listed the factors considered in determining an organization's major purpose, the rule would still have had to be enforced through investigations of the specific statements, solicitations, and other conduct by particular organizations. Furthermore, any list of factors developed by the Commission would not likely be exhaustive in any event, as evidenced by the multitude of fact patterns at issue in the Commission's enforcement matters considering the political committee status of various entities (''Political Committee Status Matters''). *See, e.g.*, MURs 5511 and 5525 (Swiftboat Vets); 5753 (League of Conservation Voters); 5754 (MoveOn.org Voter Fund); 5492 (Freedom, Inc.); 5751 (Leadership Forum).

E. The 2004 Final Rules Clarify and Strengthen the Political Committee Determination Consistent With the FECA and Supreme Court Framework

To best ensure that organizations that participate in Federal elections use funds compliant with the Act's restrictions, the Commission decided in the 2004 rulemaking to adopt two broad anti-circumvention measures. The first expands the regulatory definition of ''contribution'' to capture funds solicited for the specific purpose of supporting or opposing the election of a Federal candidate. *See* 11 CFR 100.57. An organization that receives more than $1,000 of such funds is required to register as a political committee. The second rule places limits on the non-Federal funds a registered political committee may use to engage in certain activity, such as voter drives and campaign advertisements, which has a clear Federal component. *See* 11 CFR 106.6. The combined effect of these two rules significantly curbs the raising and spending of non-Federal funds in connection with Federal elections, in a manner wholly consistent with the existing political committee framework. The effect of these changes on 527 organizations has already been remarked. *See* Paul Kane, *''Liberal 527s Find Shortfall,''* Roll Call (Sept. 25, 2006) (''a change in FEC regulations curtailed a huge chunk of 527 money because, after the 2004 elections, the commission issued a ruling that said all get-out-the-vote efforts in Congressional races had to be financed with at least 50 percent federal donations, those contributions that are limited to $5000 per year to political action committees'').

1. The Commission Adopted a New Regulation That Requires Organizations To Register as Political Committees Based on Their Solicitations

While Supreme Court precedent places strict parameters on the breadth of the definition of expenditure, Supreme Court precedent provides greater deference to contribution restrictions. *See FEC* v. *Beaumont,* 539 U.S. 146, 161 (U.S. 2003) (upholding the constitutionality of FECA's corporate contribution prohibition as applied to a non-profit advocacy corporation and noting: ''Going back to *Buckley,* restrictions on political contributions have been treated as merely 'marginal' speech restrictions subject to relatively complaisant review under the First Amendment, because contributions lie closer to the edges than to the core of political expression.'') (citations omitted). Other judicial precedent specifically permits a broader interpretation of when an organization has solicited contributions. In *FEC* v. *Survival Educ. Fund, Inc.,* 65 F.3d 285 (2d Cir. 1995) (*''SEF''*), the appellate court held that a mailer solicited ''contributions'' under FECA when it left '' no doubt that the funds contributed would be used to advocate President Reagan's defeat at the polls, not simply to criticize his policies during the election year.'' *Id.* at 295. The Commission's new rule at 11 CFR 100.57 codifies the *SEF* analysis. Section 100.57(a) states that if a solicitation ''indicates that any portion of the funds received will be used to support or oppose the election of a clearly identified Federal candidate,'' then all money received in response to that solicitation must be treated as a ''contribution'' under FECA. *See 2004 Final Rules,* 69 FR at 68057–58.

When an organization receives $1,000 or more in contributions, including those that are defined under new section 100.57(a), the organization will meet the statutory definition of a ''political committee.'' An organization that triggers political committee status through the receipt of such contributions is required to register the committee with the Commission, report all receipts and disbursements, and abide by the contribution limitations and source prohibitions.

Thus, section 100.57 codifies a clear, practical, and effective means of determining whether an entity, regardless of tax status, is participating in activity designed to influence Federal elections, and, therefore, may be required to register as a political committee.

[13] Many prominent 527 organizations in 2004 were registered political committees with Federal and non-Federal accounts. A new rule addressing major purpose would not have required these organizations to change their structures. The more relevant questions for these organizations was whether particular expenses could lawfully be paid with non-Federal funds from a non-Federal account, which was sometimes a connected 527 organization not registered with the Commission, and whether non-Federal funds could be raised through solicitations that referred to clearly identified Federal candidates. New section 100.57 and revised section 106.6, as discussed below in Part E, address these questions.

[14] As described in Part F, below, the Commission has resolved several enforcement matters that involve 527 organizations alleged to have unlawfully failed to register as political committees. The Commission further notes that it has concluded action on the vast majority of the 2004-cycle cases on its docket and posted record enforcement figures in 2006. *See* Press Release, Federal Election Commission, FEC Posts Record Year, Collecting $6.2 Million in Civil Penalties, *available at http://www.fec.gov/press/press2006/20061228summary.htmlprocess.*

In addition, the new regulation contains a prophylactic measure at section 100.57(b) to prevent circumvention of the solicitation rule by registered political committees operating both Federal and non-Federal accounts under the Commission's allocation rules. Section 100.57(b) requires that at least 50%, and as much as 100%, of the funds received in response to a solicitation satisfying the requirements of section 100.57(a) be treated as FECA contributions, regardless of references to other intended uses for the funds received. *See* 11 CFR 100.57(b)(1) and (2); *2004 Final Rules,* 69 FR at 68058–59. Therefore, section 100.57(b) prevents a political committee from adding references to non-Federal candidates or political parties to its solicitation materials in order to claim that most or all of the funds received are for non-Federal purposes, and therefore, not ''contributions'' under FECA. The regulation has the additional advantage of prohibiting registered political committees from raising donations not subject to the limitations from individual contributors or from prohibited sources using solicitation materials that focus on influencing the election of Federal candidates.

Moreover, the costs of these solicitations must be paid for with a corresponding proportion of Federal funds. For example, if 100% of the funds received from a solicitation would be treated as contributions under section 100.57(b)(1), then 100% of the costs of that solicitation must be paid with Federal funds. *See* 11 CFR 100.57(b); 11 CFR 106.1(a)(1); 11 CFR 106.6(d)(1); 11 CFR 106.7(d)(4).

In sum, section 100.57 codifies a broad method of establishing political committee status with strong anti-circumvention protections, providing clear guidance to the regulated community that any organization, regardless of tax status, may be required to register as a political committee based on its solicitations.

2. The Commission Adopted Anti-Circumvention Measures Requiring That Campaign Ads and Voter Turn Out Efforts be Paid for With at Least 50% Federal Funds and as Much as 100% Federal Funds

The *2004 Final Rules* also include a comprehensive overhaul of the Commission's allocation regulations, which govern how corporate and labor organization PACs and nonconnected committees split the costs of Federal and non-Federal activities such as campaign ads and voter turnout efforts. *See* 11 CFR 106.6. Under Commission regulations, a registered political committee that participates in both Federal and non-Federal elections is permitted to maintain both Federal and non-Federal accounts, containing funds that comply, respectively, with Federal and State restrictions. *See* 11 CFR 102.5(a).

Because many activities that an organization may undertake will have both a Federal and non-Federal component (such as a voter drive where both the Federal candidate and the non-Federal candidate are appearing on the ballot), previous Commission regulations had permitted the committee to develop an allocation percentage based on a ratio of Federal expenditure to Federal and non-Federal disbursements. This allocation percentage would govern how payments for all activity of the organization would be split between the two accounts.

Several commenters claimed that some registered political committees were relying on these former allocation rules to pay for Federal campaign ads and voter turnout efforts that could influence the 2004 Federal elections almost entirely with non-Federal funds. BCRA's Congressional sponsors, including two of the *Shays II* plaintiffs, argued that the previous allocation requirements ''allow[ed] for absurd results'' and that ''[t]he Commission must revise its allocation rules to require a significant minimum hard money share for spending on voter mobilization in a federal election year.''

Several campaign finance reform groups, including counsel to two of the *Shays II* amici, urged the Commission to curb these perceived abuses. At the time, they stated it was ''essential for the Commission to take this action as part of the [2004] rulemaking process.''

The *2004 Final Rules* directly resolve these concerns by establishing strict new Federal funding requirements for registered political committees, as well as for entities that conduct activity through both registered Federal accounts and unregistered non-Federal accounts. The new rules require these groups to: (a) Use a minimum of 50% Federal funds to pay for get-out-the-vote drives that do not mention a specific candidate, as well as public communications that refer to a political party without referring to any specific candidates, and administrative costs; (b) use 100% Federal funds to pay for public communications or voter drives that refer to one or more Federal candidates, but no non-Federal candidates; and (c) for public communications or voter drives that refer to both Federal and non-Federal candidates, use a ratio of Federal and non-Federal funds based on the time and space devoted to each Federal candidate as compared to the total space devoted to all candidates. *See* 11 CFR 106.6(c); *2004 Final Rules,* 69 FR at 68061–63; 11 CFR 106.6(f). Notably, the Commission's new allocation and contribution regulations are the subject of pending litigation, where the Commission is charged not with being too lenient, but being too restrictive. *See EMILY's List* v. *FEC* (Civil No. 05–0049 (CKK)) (D.D.C. summary judgment briefing completed July 18, 2005).[15]

An additional change to the regulation will also significantly shift political committees towards a greater use of Federal funds. The new regulations require an organization to pay at least 50% of its administrative costs with funds from the Federal account. This regulatory adjustment will curtail longstanding complaints that the Commission's allocation regulations have permitted non-Federal funds to substantially subsidize the overhead and day-to-day operations of the organization's Federal activity.

The revisions to section 106.6 prevent registered political committees from fully funding campaign advertisements and voter drives primarily designed to benefit Federal candidates with non-Federal funds simply by making a passing reference to a non-Federal candidate.

F. Since the 2004 Rulemaking, the Commission's Enforcement Actions Demonstrate the Application and Sufficiency of the FECA Political Committee Framework, and Provide Considerable Guidance Addressing When Groups Must Register as Political Committees

The Commission has applied FECA's definition of ''political committee,'' together with the major purpose doctrine, in the recent resolution of a number of administrative enforcement Matters involving 527 organizations and other groups. *See* MURs 5511 and 5525 (Swiftboat Vets); 5753 (League of Conservation Voters); 5754 (MoveOn.org Voter Fund); 5751 (The Leadership Forum); 5492 (Freedom, Inc.).[16] In each of these Political Committee Status Matters, the Commission conducted a thorough investigation of all aspects of the organization's statements and activities to determine first if the organization exceeded the $1,000

[15] Material related to this litigation can be found at *http://www.fec.gov/law/litigation_related.shtml#emilyslist_dc.*

[16] Documents related to these and other Commission MURs cited in this Explanation and Justification are available at *http://eqs.nictusa.com/eqs/searcheqs.*

statutory and regulatory threshold for expenditures or contributions in 2 U.S.C. 431(4)(A) and 11 CFR 100.5(a), and then whether the organization's major purpose was Federal campaign activity. The settlements in the Political Committee Status Matters are significant because they are the first major cases after the Supreme Court's decision in *McConnell* to consider the reach of the definition of ''express advocacy'' when evaluating an organization's disbursements for communications made independently of a candidate to determine if the expenditure threshold has been met. They are also significant because they demonstrate that an organization may satisfy the political committee status threshold based on how the organization raises funds, and that the Commission examines fundraising appeals based on the plain meaning of the solicitation, not the presence or absence of specific words or phrases. Finally, the Political Committee Status Matters illustrate well the Commission's application of the major purpose doctrine to the conduct of particular organizations.

As discussed in detail below, in these and other matters, the Commission provides guidance to organizations about both the expenditure and the contribution paths to political committee status under FECA, as well as the major purpose doctrine. Any organization can look to the public files for the Political Committee Status Matters and other closed enforcement matters, as well as advisory opinions and filings in civil enforcement cases, for guidance as to how the Commission has applied the statutory definition of ''political committee'' together with the major purpose doctrine. The public documents available regarding the 527 settlements in particular provide more than mere clarification of legal principle; they provide numerous examples of actual fundraising solicitations, advertisements, and other communications that will trigger political committee status. These documents should guide organizations in the future as they formulate plans and evaluate their own conduct so they may determine whether they must register and report with the Commission as political committees. To the extent uncertainty existed, these 527 settlements reduce any claim of uncertainty because concrete factual examples of the Commission's political committee status analysis are now part of the public record.

1. The Expenditure Path to Political Committee Status

In the Swiftboat Vets and League of Conservation Voters Matters, the Commission analyzed whether the organizations' advertising, voter drives and other communications ''expressly advocated'' the election or defeat of a clearly identified Federal candidate under the two definitions of that term in 11 CFR 100.22.[17] The Commission applied a test for express advocacy that is not only limited to the so-called ''magic words'' such as ''vote for'' or ''vote against,''[18] but also includes communications containing an ''electoral portion'' that is ''unmistakable, unambiguous, and suggestive of only one meaning'' and about which ''reasonable minds could not differ as to whether it encourages actions to elect or defeat'' a candidate when taken as a whole and with limited reference to external events, such as the proximity to the election.[19] The Commission was able to apply the alternative test set forth in 11 CFR 100.22(b) free of constitutional doubt based on *McConnell's* statement that a ''magic words'' test was not constitutionally required, as certain Federal courts had previously held. Express advocacy also includes exhortations ''to campaign for, or contribute to, a clearly identified candidate.'' *FEC* v. *Christian Coalition,* 52 F. Supp. 2d 45, 62 (D.D.C. 1999) (explaining why *Buckley,* 424 U.S. at 44 n.52, included the word ''support,'' in addition to ''vote for'' or ''elect,'' in its list of examples of express advocacy communication). Thus, if the organization spent more than $1,000 on a communication meeting either test for express advocacy, then the statutory threshold of expenditures was met.

The Commission determined that Swiftboat Vets met the threshold for ''expenditures'' because it spent over $1,000 for fundraising communications that ''expressly advocated'' the election or defeat of a clearly identified Federal candidate under 11 CFR 100.22(a). In addition, Swiftboat Vets spent over $1,000 for television advertisements, direct mailings and a newspaper advertisement that contained express advocacy under 11 CFR 100.22(b).[20]

The Commission also determined that two League of Conservation Voter 527 organizations met the expenditure threshold because they spent more than $1,000 on door-to-door canvassing and telephone banks where the scripts and talking points for canvassers and callers expressly advocated the defeat of a Federal candidate under 11 CFR 100.22(a). In addition, the League of Conservation Voters 527s spent more than $1,000 for a mailer expressly advocating a Federal candidate's election under both definitions in 11 CFR 100.22(a) and (b).[21]

2. The Contribution Path to Political Committee Status

With regard to the $1,000 threshold for ''contributions,'' the Commission examined fundraising appeals from each organization in the Swiftboat Vets, League of Conservation Voters and MoveOn.org Voter Fund matters and determined that if any of the solicitations clearly indicated that the funds received would be used to support or defeat a Federal candidate, then the funds received were given ''for the purpose of influencing'' a Federal election and therefore constituted ''contributions'' under FECA. *See SEF.* The Commission examined the entirety of the solicitations and did not limit its analysis to the presence or absence of any particular words or phrases. If any solicitations meeting the test set forth in *SEF* resulted in more than $1,000 received by the organization, then the statutory threshold for contributions was met.

Swiftboat Vets received more than $1,000 in response to several e-mail and Internet fundraising appeals and a direct mail solicitation clearly indicating that the funds received would be used to the defeat of a Federal candidate, which meant these funds were ''contributions'' under FECA.[22] Similarly, the League of

[17] In these Matters, the Commission used its enforcement process to develop the factual record of what advertisements the organizations ran, when and where they ran, and how much they cost, and to reach the legal conclusions of whether the regulatory standards were satisfied. Thus, even when the Commission codifies a legal standard in its regulations, the enforcement process is the vehicle for determining how that legal standard should be applied in a particular case.

[18] Under 11 CFR 100.22(a), a communication contains express advocacy when it uses phrases such as ''vote for the President,'' ''re-elect your Congressman,'' or ''Smith for Congress,'' or uses campaign slogans or words that in context have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidates, such as posters, bumper stickers, or advertisements that say, ''Nixon's the One,'' ''Carter '76,'' ''Reagan/Bush,'' or ''Mondale!''.

[19] 11 CFR 100.22(b). The Commission also recently resolved another administrative action based on a determination that a 501(c)(4) organization's communications satisfied the ''express advocacy'' definition in section 100.22(b). *See* MUR 5634 (Sierra Club, Inc.).

[20] *See* MUR 5511 Conciliation Agreement, at paragraphs 23–28.

[21] *See* MUR 5753 Conciliation Agreement, at 8–9.

[22] *See* MUR 5511 Conciliation Agreement, at paragraphs 18–21.

Conservation Voters 527s each received more than $1,000 in response to mailed solicitations, telephone calls, and personal meetings with contributors where the organizations clearly indicated that the funds received would be used to defeat a Federal candidate, which also meant these funds were ''contributions'' under FECA.[23] Finally, MoveOn.org Voter Fund received more than $1,000 in response to specific fundraising e-mail messages that clearly indicated the funds received would be used to defeat a Presidential candidate, which constituted ''contributions'' under FECA.[24]

3. Application of the Major Purpose Doctrine

After determining that each organization in the Swiftboat Vets, League of Conservation Voters, and MoveOn.org Voter Fund matters had met the threshold for contributions or expenditures in FECA and Commission regulations, the Commission then investigated whether each organization's major purpose was Federal campaign activity. The Commission examined each organization's fundraising solicitations, the sources of its contributions, and the amounts received. The Commission considered public statements as well as internal documents about an organization's mission. Each organization's full range of campaign activities was evaluated, including whether the organization engaged in any activities that were not campaign related.

Recently resolved matters reflect the comprehensive analysis required to determine an organization's major purpose. Swiftboat Vets' major purpose was campaign activity, as evidenced by: (1) Statements made to prospective donors detailing the organization's goals; (2) public statements on the organization's Web site; (3) statements in a letter from the organization's Chairman thanking a large contributor; (4) statements by a member of the organization's Steering Committee on a news program; and (5) statements in various fundraising solicitations. The organization's activities also evidenced its major purpose as over 91% of its reported disbursements were spent on advertisements directed to Presidential battleground States and direct mail attacking or expressly advocating the defeat of a Presidential candidate, and the organization has effectively ceased active operations after the November 2004 election.[25]

The League of Conservation Voters 527s' major purpose was campaign activity as demonstrated through: (1) Statements made in the organizations' solicitations; (2) statements in organizational planning documents, such as a ''National Electoral Strategic Plan 2004''; (3) public statements endorsing Federal candidates; and (4) statements in letters from the organizations' President describing the organizations' activities. The organizations' budget also evidenced its major purpose of campaign activity because 50–75% of the political budget for the organizations was intended for the Presidential election.[26]

MoveOn.org Voter Fund's major purpose was campaign activity as evidenced by statements regarding its objectives in e-mail solicitations. MoveOn.org Voter Fund's activities also demonstrated its major purpose of campaign activity. MoveOn.org Voter Fund spent over 68% of its total 2004 disbursements on television advertising opposing a Federal candidate in Presidential battleground states; the only other disbursements from MoveOn.org Voter Fund in 2004 were for fundraising, administrative expenses, and grants to other political organizations. MoveOn.org Voter Fund spent nothing on State or local elections. Lastly, MoveOn.org Voter Fund has effectively ceased active operations after the November 2004 election.[27]

527 organizations are not the only groups whose major purpose is Federal campaign activity. The Commission recently conciliated a MUR with a 501(c)(4) organization, Freedom Inc., which had failed to register and report as a political committee despite conducting Federal campaign activity during the 2004 election cycle. *See* MUR 5492. Freedom Inc. made more than $1,000 in expenditures for communications that expressly advocated a Federal candidate's election under section 100.22(a), and it conceded that its major purpose was campaign activity.

4. Other FEC Actions

In addition to the Political Committee Status Matters discussed above, the Commission filed suit against another 527 organization, the Club for Growth, Inc. (''CFG''), for failing to register and report as a political committee in violation of FECA. *See FEC* v. *Club for Growth, Inc.,* Civ. No. 05–1851 (RMU) (D.D.C. Compl. pending).[28] The Commission's complaint against CFG provides further guidance to organizations regarding the prerequisites of political committee status.

The complaint shows that CFG made expenditures for candidate research, polling, and advertising, including advertising that expressly advocates the election or defeat of clearly identified candidates. (Compl. at 10–11). Additionally, CFG made solicitations indicating that funds provided would be used to support or oppose specific candidates, which means the funds received were contributions under FECA. (*Id.,* at 8–9). Finally, the complaint reflects an extensive examination of the organization, resulting in a determination that the major purpose of the organization was to influence Federal elections (*id.,* at 12), including evidence such as: CFG's statement of purpose in the registration statement submitted to the Internal Revenue Service (*id.,* at 6); other public statements indicating CFG'S purpose is influencing Federal elections (*id.,* at 6–7); CFG's use of solicitations that make clear that contributions will be used to support or oppose the election of specific Federal candidates (*id.,* at 8–9); other spending by CFG for public communications mentioning Federal candidates (*id.,* at 10–11); and the absence of any spending by CFG on State or local races (*id.,* at 10).

Just as findings of violations inform organizations as to what kinds of activities will compel registration as a Federal political committee, a Commission finding that there has been no violation clarifies those activities that will not. For example, in MUR 5751 (the Leadership Forum), the Commission made a threshold finding that there was a basis for investigating (*i.e.*, the Commission found ''Reason to Believe'') whether the Leadership Forum had failed to register as a political committee based on its 2004 election activity. The subsequent investigation revealed that the Leadership Forum's only public communications reprinted governmental voter information, without any mention of Federal or non-Federal candidates or political parties. Following the investigation, the Commission closed the matter because it found no evidence that the Leadership

[23] *See* MUR 5753 Conciliation Agreement, at 5–7.

[24] *See* MUR 5754 Conciliation Agreement, at 5–8.

[25] *See* MUR 5511 Conciliation Agreement, at paragraphs 31–36.

[26] *See* MUR 5753 Conciliation Agreement, at 9–10.

[27] *See* MUR 5754 Conciliation Agreement, at 8, and Factual & Legal Analysis, at 11–13 (Aug. 9, 2006).

[28] Complaint available at *http://www.fec.gov/law/litigation/club_for_growth_complaint.pdf.*

Forum had crossed the $1,000 threshold through expenditures or contributions. Consequently, the Commission did not undertake a major purpose analysis for the Leadership Forum.

All of these cases taken together illustrate (1) The Commission's commitment to enforcing FECA's requirements for political committee status as well as (2) the need for an examination of an organization's activities under the major purpose doctrine, regardless of a particular organization's tax status.

5. The Advisory Opinion Process

Any entity that remains unclear about the application of FECA to its prospective activities may request an advisory opinion from the Commission. *See* 2 U.S.C. 437f; 11 CFR part 112. Through advisory opinions, the Commission can further explain the application of the law and provide guidance to an organization about how the Commission would apply the major purpose doctrine to its proposed activities, and whether the organization must register as a political committee.[29]

Under FECA, the Commission is required to provide an advisory opinion within 60 days of receiving a complete written request and, in some instances, within 20 days. *See* 2 U.S.C. 437f(a); 11 CFR 112.4(a) and (b). Moreover, the Commission's legal analysis and conclusions in an advisory opinion may be relied upon not only by the requestor, but also by any person whose activity ''is indistinguishable in all its material aspects'' from the activity in the advisory opinion. *See* 2 U.S.C. 437f(c); 11 CFR 112.5(a)(2). The Commission has considered the major purpose doctrine in prior advisory opinions when assessing whether an organization is a political committee.[30]

The advisory opinion process is an effective means by which the Commission clarifies the law because it allows an entity to ask the Commission for specific advice about the factual situation with which the entity is concerned, often in advance of the entity engaging in the contemplated activities.

[29] *See* McConnell, 540 U.S. at 170 n.64 (holding portions of BCRA were not unconstitutionally vague, in part because ''should plaintiffs feel that they need further guidance, they are able to seek advisory opinions for clarification * * * and thereby 'remove any doubt there may be as to the meaning of the law''' (internal citation omitted)).

[30] *See* Advisory Opinions 2006–20 (Unity 08); 2005–16 (Fired Up); 1996–13 (Townhouse Associates); 1996–3 (Breeden-Schmidt Foundation); 1995–11 (Hawthorn Group); 1994–25 (Libertarian National Committee) and 1988–22 (San Joaquin Valley Republican Associates).

Conclusion

By adopting a new regulation by which an organization may be required to register as a political committee based on its solicitations, and by tightening the rules governing how registered political committees fund solicitations, voter drives and campaign advertisements, the *2004 Final Rules* bolstered FECA against circumvention not just by one kind of organization, but by groups of all kinds. As discussed above, the Commission's decision not to establish a political committee definition singling out 527 organizations is informed by the statutory scheme, Supreme Court precedent, and Congressional action regarding 527 organizations. Accordingly, the Commission will continue to utilize the political committee framework provided by Congress in FECA, as modified by the Supreme Court.

Pursuant to FECA and Supreme Court precedent, the Commission will continue to determine political committee status based on whether an organization (1) Received contributions or made expenditures in excess of $1,000 during a calendar year, and (2) whether that organization's major purpose was campaign activity. *See* 2 U.S.C. 431(4)(A); *Buckley,* 424 U.S. at 79; *MCFL,* 479 U.S. at 262. When analyzing a group's contributions, the Commission will consider whether any of an organization's solicitations generated contributions because the solicitations indicated that any portion of the funds received would be used to support or oppose the election of a clearly identified Federal candidate. *See* 11 CFR 100.57. Additionally, the Commission will analyze whether expenditures for any of an organization's communications made independently of a candidate constituted express advocacy either under 11 CFR 100.22(a), or the broader definition at 11 CFR 100.22(b).

As evidenced by the Commission's recent enforcement actions, together with guidance provided through publicly available advisory opinions and filings in civil enforcement cases, this framework provides the Commission with a very effective mechanism for regulating organizations that should be registered as political committees under FECA, regardless of that organization's tax status. The Commission's new and amended rules, together with this Supplemental Explanation and Justification, as well as the Commission's recent enforcement actions, places the regulated community on notice of the state of the law regarding expenditures, the major purpose doctrine, and solicitations resulting in contributions. In addition, any group unclear about the application of FECA to its prospective activities may request an advisory opinion from the Commission. *See* 2 U.S.C. 437f; 11 CFR part 112.

Dated: February 1, 2007.

Robert D. Lenhard,

Chairman, Federal Election Commission.

[FR Doc. E7–1936 Filed 2–6–07; 8:45 am]

BILLING CODE 6715–01–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 612, 613, 614, and 615

RIN 3052–AC15

Organization; Standards of Conduct and Referral of Known or Suspected Criminal Violations; Eligibility and Scope of Financing; Loan Policies and Operations; Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations; Regulatory Burden; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final rule under parts 611, 612, 613, 614, and 615 on November 8, 2006 (71 FR 65383). This final rule reduces regulatory burden on the Farm Credit System by repealing or revising regulations and correcting outdated and erroneous regulations. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is February 1, 2007.

EFFECTIVE DATES: The regulation amending 12 CFR parts 611, 612, 613, 614, and 615, published on November 8, 2006 (71 FR 65383) is effective February 1, 2007.

FOR FURTHER INFORMATION CONTACT: Jacqueline R. Melvin, Associate Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TTY (703) 883–4434; or Howard I. Rubin, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–4020.

(12 U.S.C. 2252(a)(9) and (10))

Dated: February 1, 2007.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. E7–1950 Filed 2–6–07; 8:45 am]

BILLING CODE 6705–01–P

SMALL BUSINESS ADMINISTRATION

13 CFR Part 123

RIN 3245–AF46

Disaster Relief to Small Business Concerns Damaged by Drought

AGENCY: Small Business Administration (SBA).

ACTION: Interim final rule: Notice of reopening of the comment period.

SUMMARY: On December 15, 2006 SBA published in the **Federal Register** an interim final rule on disaster relief to small business concerns damaged by drought (71 FR 75407). This interim final rule made revisions to the SBA economic injury disaster loans available to small businesses that have been adversely affected by drought, or by below average water levels in any body of water that supports commerce by small business concerns. The original comment period was from December 15, 2006 through January 16, 2007. SBA is reopening the comment period until March 9, 2007 because SBA believes that affected parties need more time to adequately respond.

DATES: The comment period for the interim final rule published on December 15, 2006 (71 FR 75407) is reopened through March 9, 2007.

ADDRESSES: You may submit comments, identified by RIN 3245–AF46, by any of the following methods: (1) Federal Rulemaking Portal: *http://www.regulations.gov*, following the specific instructions for submitting comments; (2) FAX (202) 481–2226; (3) E-mail: *Herbert.Mitchell@sba.gov*; or (4) Mail/Hand Delivery/Courier: Herbert L. Mitchell, Associate Administrator for Disaster Assistance, 409 3rd Street, SW., Washington, DC 20416.

Dated: February 1, 2007.

Herbert L. Mitchell,

Associate Administrator/Disaster Assistance.

[FR Doc. E7–1972 Filed 2–6–07; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–26086; Airspace Docket No. 06–ASO–14]

Amendment of Class E Airspace; Covington, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E5 airspace at Covington, GA. As a result of an evaluation, it has been determined a modification should be made to the Covington, GA, Class E5 airspace area to contain the Nondirectional Radio Beacon (NDB) Runway 28, Standard Instrument Approach Procedure (SIAP) to Covington Municipal Airport, Covington, GA. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to contain the SIAP.

DATES: 0901 UTC, May 10, 2007. The Director of the Federal Register approves this incorporation by reference action under 1 CFR Part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Mark Ward, Manager, System Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305-5627.

SUPPLEMENTARY INFORMATION:

History

On December 7, 2006, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending Class E5 airspace at Covington, GA, (71 FR 70911). This action provides adequate Class E5 airspace for IFR operations at Covington Municipal Airport, Covington, GA. Designations for Class E are published in FAA Order 7400.9P, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR part 71.1. The Class E designations listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) amends Class E5 airspace at Covington, GA.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASO GA E5 Covington, GA [Revised]

Covington Municipal Airport, GA
(Lat. 33°37′57″ N., long. 83°50′58″ W.)
Alcovy NDB
(Lat. 33°37′47″ N., long. 83°46′56″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Covington Municipal Airport and within 4 miles north and 8 miles south of the 096° bearing from the Alcovy NDB extending from the 6.3-mile radius to 16 miles east of the NDB.

* * * * *

Issued in College Park, Georgia, on January 22, 2007.

Barry Knight,

Acting Manager, System Support Group, Eastern Service Center.

[FR Doc. 07–510 Filed 2–6–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–26314; Airspace Docket No. 06–AAL–37]

Revision of Class E Airspace; Mekoryuk, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Mekoryuk, AK. Three new Standard Instrument Approach Procedures (SIAPs) are being developed for the Mekoryuk Airport. One Departure Procedure (DP) and two SIAPs are being amended. This rule results in the revision of Class E airspace upward from 700 feet (ft.) above the surface at the Mekoryuk Airport, Mekoryuk, AK.

EFFECTIVE DATE: 0901 UTC, May 10, 2007. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov*. Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Tuesday, November 28, 2006, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace upward from 700 ft. above the surface at Mekoryuk, AK (71 FR 68769). The action was proposed in order to create Class E airspace sufficient in size to contain aircraft while executing three new SIAPs, two amended SIAPs and one amended DP for the Mekoryuk Airport. The new approaches are (1) The Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 05, Original, (2) the RNAV (GPS) RWY 23, Original and (3) the Non-directional Beacon (NDB) B, Original. The two amended SIAPs are (1) the NDB/Distance Measuring Equipment (DME) A, Amendment (Amdt) 4 and (2) the Direction Finding (DF) RWY 23, Amdt 1. The DF approach is not published and is used by Flight Service Station staff to aid pilots in emergencies. DP's are unnamed and are published in the front of the U.S. Terminal Procedures for Alaska. Class E controlled airspace extending upward from 700 ft. above the surface in the Mekoryuk Airport area is revised by this action.

Interested parties were invited to participate in this proposed rulemaking by submitting written comments on the proposal to the FAA. No comments have been received, thus the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises Class E airspace at the Mekoryuk Airport, Alaska. This Class E airspace is revised to accommodate aircraft executing three new SIAPs, two amended SIAPs, and one amended DP, and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for Instrument Flight Rule (IFR) operations at the Mekoryuk Airport, Mekoryuk, Alaska.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, part A, subpart 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Mekoryuk Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, is amended as follows:

* * * * *

Paragraph 6005 Class E Airspace Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AAL AK E5 Mekoryuk, AK [Revised]

Mekoryuk Airport, AK
(Lat. 60°22′17″ N., long. 166°16′14″ W.)
Nanwak NDB, AK
(Lat. 60°23′06″ N., long. 166°12′53″ W.).

That airspace extending upward from 700 feet above the surface within a 7.8-mile radius of the Nanwak NDB, AK, and within 8 miles north and 4 miles south of the 063° bearing of the Nanwak NDB, AK, to 16 miles northeast of the Nanwak NDB, AK, and within 8 miles north and 4 miles south of the 243° bearing of the Nanwak NDB, AK, extending from the Nanwak NDB, AK, to 21 miles southwest of the Nanwak NDB, AK.

* * * * *

Issued in Anchorage, AK, on January 30, 2007.

Anthony M. Wylie,

Manager, Alaska Flight Services Information Area Group.

[FR Doc. E7–1890 Filed 2–6–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–26316; Airspace Docket No. 06–AAL–39]

Revision of Class E Airspace; Northway, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Northway, AK. Two new Standard Instrument Approach Procedures (SIAPs) are being developed for the Northway Airport. One SIAP and a Departure Procedure (DP) are being amended. This rule results in the revision of Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at the Northway Airport, Northway, AK.

EFFECTIVE DATE: 0901 UTC, May 10, 2007. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Tuesday, November 28, 2006, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace upward from 700 ft. and 1,200 ft. above the surface at Northway, AK (71 FR 68773). The action was proposed in order to create Class E airspace sufficient in size to contain aircraft while executing two new SIAPs, one amended SIAP and one amended DP for the Northway Airport. The new approaches are (1) The Area Navigation (Global Positioning System) (RNAV (GPS)) Runway (RWY) 05, Original and (2) the RNAV (GPS) RWY 23, Original. The amended SIAP is the Very High Frequency Omni-directional Range (VOR)/Distance Measuring Equipment (DME) A, Amendment 1. DP's are unnamed and are published in the front of the U.S. Terminal Procedures for Alaska. Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface in the Northway Airport area is revised by this action.

Interested parties were invited to participate in this proposed rulemaking by submitting written comments on the proposal to the FAA. No comments have been received, thus the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises Class E airspace at the Northway Airport, Alaska. This Class E airspace is revised to accommodate aircraft executing two new SIAPs, one amended SIAP, and one amended DP, and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for Instrument Flight Rule (IFR) operations at the Northway Airport, Northway, Alaska.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, section 106 describes the authority of the FAA Administrator. subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in subtitle VII, part A, subpart 1, section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Northway Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective

September 15, 2006, is amended as follows:

* * * * *

Paragraph 6005 Class E Airspace Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AAL AK E5 Northway, AK [Revised]

Northway Airport, AK
(Lat. 62°57′41″ N., long. 141°55′45″ W.)

That airspace extending upward from 700 feet above the surface within an 8-mile radius of the Northway Airport, AK, and that airspace extending upward from 1,200 feet above the surface within a 66-mile radius of the Northway Airport, AK, excluding the airspace east of 141°00′00″ West longitude.

* * * * *

Issued in Anchorage, AK, on January 30, 2007.

Anthony M. Wylie,

Manager, Alaska Flight Services Information Area Group.

[FR Doc. E7–1886 Filed 2–6–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–26315; Airspace Docket No. 06–AAL–38]

Revision of Class E Airspace; Gulkana, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Class E airspace at Gulkana, AK. Two new Standard Instrument Approach Procedures (SIAPs) are being developed for the Gulkana Airport. Two SIAPs and a Departure Procedure (DP) are being amended. This rule results in the revision of Class E airspace upward from 700 feet (ft.) and 1,200 ft. above the surface at the Gulkana Airport, Gulkana, AK.

EFFECTIVE DATE: 0901 UTC, May 10, 2007. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Tuesday, November 28, 2006, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise Class E airspace upward from 700 ft. and 1,200 ft. above the surface at Gulkana, AK (71 FR 68771). The action was proposed in order to create Class E airspace sufficient in size to contain aircraft while executing two new SIAPs, two amended SIAPs and one amended DP for the Gulkana Airport. The new approaches are (1) the Very High Frequency Omni-directional Range (VOR)/Distance Measuring Equipment (DME) Runway (RWY) 15, Original and (2) the VOR/DME RWY 33, Original. The two amended SIAPs are (1) the Area Navigation (Global Positioning System) (RNAV (GPS)) RWY 15, Amendment (Amdt.) 1 and (2) the RNAV (GPS) RWY 33, Amdt. 1. DP's are unnamed and are published in the front of the U.S. Terminal Procedures for Alaska. Class E controlled airspace extending upward from 700 ft. and 1,200 ft. above the surface in the Gulkana Airport area is revised by this action.

Interested parties were invited to participate in this proposed rulemaking by submitting written comments on the proposal to the FAA. No comments have been received, thus the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revises Class E airspace at the Gulkana Airport, Alaska. This Class E airspace is revised to accommodate aircraft executing two new SIAPs, two amended SIAPs, and one amended DP, and will be depicted on aeronautical charts for pilot reference. The intended effect of this rule is to provide adequate controlled airspace for Instrument Flight Rule (IFR) operations at the Gulkana Airport, Gulkana, Alaska.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it creates Class E airspace sufficient in size to contain aircraft executing instrument procedures for the Gulkana Airport and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation

Administration Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, is amended as follows:

* * * * *

Paragraph 6005 Class E Airspace Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AAL AK E5 Gulkana, AK [Revised]

Gulkana, AK
(Lat. 62°09′17″ N., long. 145°27′24″ W.)
Gulkana VOR/DME, AK
(Lat. 62°09′08″ N., long. 145°27′01″ W.)

That airspace extending upward from 700 feet above the surface within a 8.5-mile radius of the Gulkana Airport, AK, and within 8 miles east and 4 miles west of the 178° radial of the Gulkana VOR/DME, AK, to 19.8 miles south of the Gulkana Airport, AK, and within 4 miles either side of the 351° radial of the Gulkana VOR/DME, AK, extending to 10.9 miles north of the Gulkana Airport, AK; and that airspace extending upward from 1,200 ft. above the surface within a 67-mile radius of the Gulkana Airport, AK.

* * * * *

Issued in Anchorage, AK, on January 30, 2007.

Anthony M. Wylie,

Manager, Alaska Flight Services Information Area Group.

[FR Doc. E7–1888 Filed 2–6–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–26164; Airspace Docket No. 06–AAL–34]

Revocation of Class E Airspace; Adak, Atka, Cold Bay, King Cove, Nelson Lagoon, Saint George Island, Sand Point, Shemya, St. Paul Island, and Unalaska, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Class E2 and E5 controlled airspace descriptions for Adak, Atka, Cold Bay, King Cove, Nelson Lagoon, Saint George Island, Sand Point, Shemya, St. Paul Island, and Unalaska, AK. These airports lie within the boundaries of the Offshore Airspace Area Control 1234L. Since these airports lay within Control 1234L, the controlled airspace associated with these airports should be listed in the Control 1234L area description. A concurrent airspace action (docket #06–AAL–29) will incorporate this controlled airspace. There is one exception. The Class E2 surface area at Shemya, AK is no longer necessary and the docket #06–AAL–29 will not be carrying it forward. There will be no change to controlled airspace along the Aleutian Chain, except for the revocation of the Shemya Class E surface area. The controlled airspace descriptions will be listed in paragraph 6007 of FAA Order 7400.9P, *Airspace Designations and Reporting Points,* Control 1234L. This rule results in the revocation of Class E airspace descriptions for these airfields located in FAA Order 7400.0P.

EFFECTIVE DATE: 0901 UTC, May 10, 2007. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Gary Rolf, AAL–538G, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5898; fax: (907) 271–2850; e-mail: *gary.ctr.rolf@faa.gov.* Internet address: *http://www.alaska.faa.gov/at.*

SUPPLEMENTARY INFORMATION:

History

On Tuesday, November 28, 2006, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revoke Class E airspace located west of Longitude 160° W, along the Aleutian Chain, AK (71 FR 68772). The action was proposed in order to correctly locate these controlled airspace descriptions listed in FAA Order 7400.9P and to remove unnecessary controlled airspace no longer needed. Any airspace along the Aleutian Island Chain to the west of 160° West Longitude must be defined in the Offshore Airspace Area named Control 1234L, even if the airspace is within 12 miles of the shoreline. The airspace around King Cove, AK was inadvertently left out of the Notice of Proposed Rulemaking (NPRM). There is no reason to continue the public comment period because the NPRM clearly described the intent to relocate any controlled airspace west of 160° West Longitude. The controlled airspace description associated with King Cove, AK will be revoked and located the Control 1234L Offshore Airspace description. The Offshore Airspace action associated with this rule is taking place concurrently in a separate airspace rule (06–AAL–29).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No public comments have been received; thus the rule is adopted as proposed.

The area will be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as surface areas are published in paragraph 6002 and 6004 of FAA Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace areas designated as 700/1,200 ft. transition areas are published in paragraph 6005 of FAA Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 revokes Class E2 and E5 airspace along the Aleutian Chain, Alaska to the west of 160° West Longitude. This Class E controlled airspace is revoked to allow it to be correctly listed in the Offshore Airspace description located in FAA Order 7400.9P. The intended effect of this rule is to allow the controlled airspace descriptions to be correctly located in FAA Order 7400.9P.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle 1, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs,

describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart 1, Section 40103, Sovereignty and use of airspace. Under that section, the FAA is charged with prescribing regulations to ensure the safe and efficient use of the navigable airspace. This regulation is within the scope of that authority because it allows this controlled airspace to be located in the appropriate section of FAA 7400.9P and represents the FAA's continuing effort to safely and efficiently use the navigable airspace.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, *Airspace Designations and Reporting Points*, dated September 1, 2006, and effective September 15, 2006, is amended as follows:

* * * * *

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AAL AK E2 Shemya, AK [Revoked]

* * * * *

AAL AK E2 Cold Bay, AK [Revoked]

* * * * *

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 Feet or More Above the Surface of the Earth.

* * * * *

AAL AK E5 Adak, AK [Revoked]

* * * * *

AAL AK E5 Atka, AK [Revoked]

* * * * *

AAL AK E5 Cold Bay, AK [Revoked]

* * * * *

AAL AK E5 King Cove, AK [Revoked]

* * * * *

AAL AK E5 Nelson Lagoon, AK [Revoked]

* * * * *

AAL AK E5 Saint George Island, AK [Revoked]

* * * * *

AAL AK E5 Sand Point, AK [Revoked]

* * * * *

AAL AK E5 Shemya, AK [Revoked]

* * * * *

AAL AK E5 St. Paul Island, AK [Revoked]

* * * * *

AAL AK E5 Unalaska, AK [Revoked]

* * * * *

Issued in Anchorage, AK, on January 30, 2007.

Anthony M. Wylie,

Manager, Alaska Flight Services Information Area Group.

[FR Doc. E7–1884 Filed 2–6–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA 2006–24233; Airspace Docket No. 06–ANM–1]

Revision of Class E Airspace; Saratoga, WY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will revise the Class E airspace at Saratoga, WY. Additional Class E airspace is necessary to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Saratoga/Shively Field. This will improve the safety of Instrument Flight Rules (IFR) aircraft executing the new RNAV GPS SIAP at Saratoga/Shively Field, Saratoga, WY.

EFFECTIVE DATE: 0901 UTC, May 10, 2007. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Ed Haeseker, Federal Aviation Administration, Western Service Area, System Support, 1601 Lind Avenue, SW., Renton, WA 98055–4056; telephone (425) 227–2527.

SUPPLEMENTARY INFORMATION:

History

On August 11, 2006, the FAA published in the **Federal Register** a notice of proposed rulemaking to revise Class E airspace at Saratoga, WY (71 FR 46131). This action would improve the safety of Instrument Flight Rules (IFR) aircraft executing this new RNAV GPS approach procedure at Saratoga/Shively Field, Saratoga, WY. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9P dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by revising Class E airspace at Saratoga, WY. Additional controlled airspace is necessary to accommodate IFR aircraft executing a new RNAV (GPS) approach procedure at Saratoga/Shively Field, Saratoga, WY.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR part 71.1 of the Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ANM WY E5 Saratoga, WY [Revised]

Saratoga/Shively Field, WY
(Lat. 41°26′41″ N., long. 106°49′25″ W.)
Saratoga NDB
(Lat. 41°26′42″ N., long. 106°49′56″ W.)
Cherokee VOR/DME
(Lat. 41°45′21″ N., long. 107°34′55″ W.)

That airspace extending upward from 700 feet above the surface within 6.9-mile radius of the Saratoga/Shively Field Airport and within 3.1 miles each side of the 342° bearing from the Saratoga NDB extending from the 6.9-mile radius to 10 miles northwest of the NDB; that airspace extending upward from 1200 feet above the surface bounded by a line beginning at lat. 41°54′45″ N., long. 106°47′15″ W.; to lat. 41°17′00″ N., long. 106°32′30″ W.; to lat. 41°00′00″ N., long. 107°44′00″ W.; to the Cherokee VOR/DME; to the point of beginning.

* * * * *

Issued in Seattle, Washington, on December 12, 2006.

Clark Desing,

Manager, System Support, Western Service Area.

[FR Doc. E7–1898 Filed 2–6–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 50 and 380

[Docket No. AD07–9–000]

Filing Applications for Permits to Site Interstate Electric Transmission Facilities; Notice of Workshops on Electric Transmission Siting Rule

January 26, 2007.

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Final rule: Notice of workshops.

SUMMARY: The Federal Energy Regulatory Commission (Commission) will hold a series of workshops on Commission Order No. 689, the final rule for regulations for filing applications for permits to site interstate electric transmission facilities. The Commission is convening these workshops to assist stakeholders in understanding the implementation of the final rule.

DATES: Conference dates: February 13, 2007, March 6, 2007, March 7, 2007, March 13, 2007 and March 14, 2007.

FOR FURTHER INFORMATION CONTACT:

Jeff Wright, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–8617.

John Snagel, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. (202) 502–8756.

SUPPLEMENTARY INFORMATION: This series of workshops address issues raised in a final rulemaking issued in Docket No. RM06–12–000 (70 FR 75592, December 20, 2005).

The Office of Energy Projects (OEP) will host a series of workshops on Order No. 689, the final rule for Regulations for Filing Applications for Permits to Site Interstate Electric Transmission Facilities which was issued on November 16, 2006, effective February 2, 2007.[1] Order No. 689 stated, in paragraph 1, that the Commission would convene conferences to assist stakeholders in understanding the implementation of this rule.

The Commission staff will be conducting the workshops and the date, time and locations are described below. The workshops are free of charge and are open to all interested stakeholders. We are inviting federal agencies, state and local agencies, tribes, non-governmental organizations, and other interested stakeholders.

Date	Location
Tuesday, February 13, 2007, 2 p.m.–5 p.m. (CST)	Chicago, Illinois, Sheraton Gateway Suites Chicago O'Hare, 6501 North Mannheim Road, Rosemont, IL 60018. 847–699–3505. *http://www.starwoodhotels.com/sheratonl.*
Tuesday, March 6, 2007, 2 p.m.–5 p.m. (EST)	Boston, Massachusetts, Hilton Boston Logan Airport, 85 Terminal Road, Boston, MA 02128. 617–568–6700. *http://www1.hilton.com.*
Wednesday, March 7, 2007, 2 p.m.–5 p.m. (EST)	Atlanta, Georgia, Holiday Inn Select, 450 Capitol Avenue, Atlanta, GA 30312–2802. 404–591–2000. *http://www.hiatlanta.com.*
Tuesday, March 20, 2007, 2 p.m.–5 p.m. (PST)	Portland, Oregon, Holiday Inn, 8439 NE Columbia Blvd, Portland, Oregon 97220. 503–256–5000. *http://www.mainstreetmediagroup.com/87708A/cd.html.*
Wednesday, March 21, 2007, 2 p.m.–5 p.m. (MST)	Phoenix, Arizona, Phoenix Airport Marriott, 1101 North 44th Street, Phoenix, Arizona. 602–273–7373. *http://www.marriott.com/phxap.*

The workshop will consist of the Commission staff making a presentation of approximately one hour that would review the origin, the issues raised and the process approved in the final rule. Following the Commission staff presentation, there will be a question and answer period for interested stakeholders.

If you plan to attend, please respond by e-mail at *electricoutreach@ferc.gov* or by facsimile to ''Electric Transmission Rule Outreach'' at 202–219–0205. Please include in the response the names, addresses, and telephone numbers of all attendees from your organization.

If you have any questions, you may contact Jeff Wright at 202–502–8617 or John Schnagl at 202–502–8756.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1905 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

[1] Regulations for Filing Applications for Permits to Site Interstate Electric Transmission Facilities, Order No. 689, 71 FR 69440 (December 1, 2006), FERC Stats. & Regs. ¶ 31,234 (2006).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 157

[Docket No. RM81–19–000]

Natural Gas Pipelines; Project Cost and Annual Limits

February 1, 2007.

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Final rule.

SUMMARY: Pursuant to the authority delegated by 18 CFR 375.308(x)(1), the Director of the Office of Energy Projects (OEP) computes and publishes the project cost and annual limits for natural gas pipelines blanket construction certificates for each calendar year.

EFFECTIVE DATE: January 1, 2007.

FOR FURTHER INFORMATION, CONTACT: Michael J. McGehee, Chief, Certificates Branch 1, Division of Pipeline Certificates, (202) 502–8962.

Publication of Project Cost Limits Under Blanket Certificates; Order of the Director, OEP

Section 157.208(d) of the Commission's Regulations provides for project cost limits applicable to construction, acquisition, operation and miscellaneous rearrangement of facilities (Table I) authorized under the blanket certificate procedure (Order No. 234, 19 FERC ¶ 61,216). Section 157.215(a) specifies the calendar year dollar limit which may be expended on underground storage testing and development (Table II) authorized under the blanket certificate. Section 157.208(d) requires that the ''limits specified in Tables I and II shall be adjusted each calendar year to reflect the 'GDP implicit price deflator' published by the Department of Commerce for the previous calendar year.''

Pursuant to § 375.308(x)(1) of the Commission's Regulations, the authority for the publication of such cost limits, as adjusted for inflation, is delegated to the Director of the Office of Energy Projects. The cost limits for calendar year 2007, as published in Table I of § 157.208(d) and Table II of § 157.215(a), are hereby issued. It is noted that Order No. 686, 117 FERC ¶ 61,074, increased the Table I dollar limits for calendar year 2006. The 2007 cost limits are calculated based on these increased limits.

List of Subjects in 18 CFR Part 157

Administrative practice and procedure, Natural Gas, Reporting and recordkeeping requirements.

J. Mark Robinson,

Director, Office of Energy Projects.

■ Accordingly, 18 CFR part 157 is amended as follows:

PART 157—[AMENDED]

■ 1. The authority citation for part 157 continues to read as follows:

Authority: 15 U.S.C. 717–717w, 3301–3432; 42 U.S.C. 7101–7352.

■ 2. Table I in § 157.208(d) is revised to read as follows:

§ 157.208 Construction, acquisition, operation, replacement, and miscellaneous rearrangement of facilities.

* * * * *

(d) * * *

TABLE I

Year	Limit	
	Auto. proj. cost limit (Col.1)	Prior notice proj. cost limit (Col.2)
1982	$4,200,000	$12,000,000
1983	4,500,000	12,800,000
1984	4,700,000	13,300,000
1985	4,900,000	13,800,000
1986	5,100,000	14,300,000
1987	5,200,000	14,700,000
1988	5,400,000	15,100,000
1989	5,600,000	15,600,000
1990	5,800,000	16,000,000
1991	6,000,000	16,700,000
1992	6,200,000	17,300,000
1993	6,400,000	17,700,000
1994	6,600,000	18,100,000
1995	6,700,000	18,400,000
1996	6,900,000	18,800,000
1997	7,000,000	19,200,000
1998	7,100,000	19,600,000
1999	7,200,000	19,800,000
2000	7,300,000	20,200,000
2001	7,400,000	20,600,000
2002	7,500,000	21,000,000
2003	7,600,000	21,200,000
2004	7,800,000	21,600,000
2005	8,000,000	22,000,000
2006	9,600,000	27,400,000
2007	9,900,000	28,200,000

* * * * *

■ 3. Table II in § 157.215(a) is revised to read as follows:

§ 157.215 Underground storage testing and development.

(a) * * *

(5) * * *

TABLE II

Year	Limit
1982	$2,700,000
1983	2,900,000
1984	3,000,000
1985	3,100,000
1986	3,200,000
1987	3,300,000
1988	3,400,000
1989	3,500,000
1990	3,600,000
1991	3,800,000
1992	3,900,000
1993	4,000,000
1994	4,100,000
1995	4,200,000
1996	4,300,000
1997	4,400,000
1998	4,500,000
1999	4,550,000
2000	4,650,000
2001	4,750,000
2002	4,850,000
2003	4,900,000
2004	5,000,000
2005	5,100,000
2006	5,250,000
2007	5,400,000

* * * * *

[FR Doc. E7–1994 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF STATE

22 CFR Part 126

[Public Notice: 5685]

Amendment of the International Traffic in Arms Regulations: Policy With Respect to Libya and Venezuela

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: Notice is hereby given that the United States is amending the International Traffic in Arms Regulations regarding Libya at 22 CFR 126.1(a) and (d) to make it United States policy to deny licenses, other approvals, exports or imports of defense articles and defense services destined for or originating in Libya except, on a case-by-case basis for non-lethal defense articles and defense services, and non-lethal safety-of-use defense articles (e.g., cartridge actuated devices, propellant actuated devices and technical manuals for military aircraft for purposes of enhancing the safety of the aircrew) as spare parts for lethal end-items. Further, the Department of State is adding Venezuela to 22 CFR 126.1(a) as a result of its designation as a country not cooperating fully with anti-terrorism efforts, and in conjunction with the August 17, 2006 [71 FR 47554]

announcement of a policy of denial of the export or transfer of defense articles to and revocation of existing authorizations for Venezuela.

EFFECTIVE DATE: This rule is effective February 7, 2007.

ADDRESSES: Interested parties may submit comments at any time by any of the following methods:

- *E-mail:* *DDTCResponseTeam@state.gov* with an appropriate subject line.
- *Mail:* Department of State, Directorate of Defense Trade Controls, Office of Defense Trade Controls Policy, ATTN: Regulatory Change, 12th Floor, SA–1, Washington, DC 20522–0112.
- *Fax:* 202–261–8199.
- *Hand Delivery or Courier (regular work hours only):* Department of State, Directorate of Defense Trade Controls, Office of Defense Trade Controls Policy, ATTENTION: Regulatory Change, SA–1, 12th Floor, 2401 E Street, NW., Washington, DC 20037.

Persons with access to the Internet may also view this notice by going to the regulations.gov Web site at: *http://www.regulations.gov/index.cfm.*

FOR FURTHER INFORMATION CONTACT: Ann K. Ganzer, Office of Defense Trade Controls Policy, Department of State, 12th Floor, SA–1, Washington, DC 20522–0112; Telephone 202–663–2792 or FAX 202–261–8199; e-mail: *DDTCResponseTeam@state.gov.* ATTN: Regulatory Change.

SUPPLEMENTARY INFORMATION: On June 30, the Secretary of State rescinded Libya's designation as a state sponsor of terrorism. This Notice establishes that it is the policy of the United States to deny licenses, other approvals, exports or imports of defense articles and defense services destined for or originating in Libya except, on a case-by-case basis, for non-lethal defense articles and defense services and non-lethal safety-of-use defense articles (e.g., cartridge actuated devices, propellant actuated devices and technical manuals for military aircraft for purposes of enhancing the safety of the aircrew) as spare parts for lethal end-items. For non-lethal defense end-items, no distinction will be made between Libya's existing and new inventory.

On May 8, 2006, the Secretary of State determined that five countries, Cuba, Iran, North Korea, Syria and Venezuela, are not cooperating fully with anti-terrorism efforts [71 FR 28897]. Section 40A of the AECA prohibits the sale or licensing of defense articles and services to those on the list for a term of the fiscal year beginning October 1, 2006. In addition, on August 17, 2006 [71 FR 47554] the State Department announced a policy of denial of the export or transfer of defense articles to and revocation of existing authorizations for Venezuela.

Regulatory Analysis and Notices

Administrative Procedure Act

This amendment involves a foreign affairs function of the United States and, therefore, is not subject to the procedures required by 5 U.S.C. 553 and 554.

Regulatory Flexibility Act

This rule does not require analysis under the Regulatory Flexibility Act.

Unfunded Mandates Act of 1995

This rule does not require analysis under the Unfunded Mandates Reform Act.

Small Business Regulatory Enforcement Fairness Act of 1996

This amendment has been found not to be a major rule within the meaning of the Small Business Regulatory Enforcement Fairness Act of 1996. It will not have substantial direct effects on the States, the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

Executive Orders 12372 and 13132

It is determined that this rule does not have sufficient federalism implications to warrant application of the consultation provisions of Executive Orders 12372 and 13132.

Executive Order 12866

This amendment is exempt from review under Executive Order 12866, but has been reviewed internally by the Department of State to ensure consistency with the purposes thereof.

Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 22 CFR Part 126

Arms and munitions, Exports.

■ Accordingly, for the reasons set forth above, Title 22, CFR part 126 is amended to read as follows:

PART 126—GENERAL POLICIES AND PROVISIONS

■ 1. The authority citation for part 126 continues to read as follows:

Authority: Secs. 2, 38, 40, 42, and 71, Pub. L. 90–629, 90 Stat. 744 (22 U.S.C. 2752, 2778, 2780, 2791, and 2797); E.O. 11958, 42 FR 4311; 3 CFR, 1977 Comp., p. 79; 22 U.S.C. 2651a; 22 U.S.C. 287c; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; Sec. 1225, Pub. L. 108–375.

■ 2. Section 126.1 is amended by revising paragraphs (a) and (d) to read as follows and adding paragraph (k):

§ 126.1 Prohibited exports and sales to certain countries.

(a) *General.* It is the policy of the United States to deny licenses and other approvals for exports and imports of defense articles and defense services, destined for or originating in certain countries. This policy applies to Belarus, Cuba, Iran, North Korea, Syria, Venezuela and Vietnam. This policy also applies to countries with respect to which the United States maintains an arms embargo (e.g., Burma, China, Liberia, Somalia, and Sudan) or whenever an export would not otherwise be in furtherance of world peace and the security and foreign policy of the United States. Information regarding certain other embargoes appears elsewhere in this section. Comprehensive arms embargoes are normally the subject of a State Department notice published in the **Federal Register**. The exemptions provided in the regulations in this subchapter, except § 123.17 of this subchapter, do not apply with respect to articles originating in or for export to any proscribed countries, areas, or persons in this § 126.1.

* * * * *

(d) *Terrorism.* Exports to countries which the Secretary of State has determined to have repeatedly provided support for acts of international terrorism are contrary to the foreign policy of the United States and are thus subject to the policy specified in paragraph (a) of this section and the requirements of section 40 of the Arms Export Control Act (22 U.S.C. 2780) and the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986 (22 U.S.C. 4801, note). The countries in this category are: Cuba, Iran, North Korea, Sudan and Syria.

* * * * *

(k) *Libya.* It is the policy of the United Sates to deny licenses, other approvals, exports or imports of defense articles and defense services destined for or originating in Libya except, on a case-by-case basis, for:

(1) Non-lethal defense articles and defense services,

(2) Non-lethal safety-of-use defense articles (e.g., cartridge actuated devices, propellant actuated devices and technical manuals for military aircraft for purposes of enhancing the safety of

the aircrew) as spare parts for lethal end-items.

For non-lethal defense end-items, no distinction will be made between Libya's existing and new inventory.

Dated: January 12, 2007.

Robert G. Joseph,

Under Secretary for Arms Control and International Security, Department of State.

[FR Doc. E7–2034 Filed 2–6–07; 8:45 am]

BILLING CODE 4710–25–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1603

RIN 3046–AA83

Procedures for Previously Exempt State and Local Government Employee Complaints of Employment Discrimination Under Section 304 of the Government Employee Rights Act of 1991; Revision

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: This document contains revisions to the final regulations which were published in the **Federal Register** of Thursday, April 10, 1997 (62 FR 17543). The regulations pertain to the procedures by which state and local government employees previously exempt from maintaining claims of employment discrimination can pursue such claims.

DATES: Effective on February 7, 2007.

FOR FURTHER INFORMATION CONTACT: Thomas J. Schlageter, Assistant Legal Counsel, or Gary John Hozempa, Senior General Attorney, at (202) 663–4669 (voice) or (202) 663–7026 (TTY). This document also is available in the following alternative formats: large print, braille, audiotape and electronic file on computer disk. Requests for the final rule in an alternative format should be made to the Equal Employment Opportunity Commission's (EEOC) Publication Center at 1–800–669–3362 (voice), 1–800–800–3302 (TTY), or 703–821–2098 (FAX—this is not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

Prior to the passage of the Government Employees Rights Act of 1991 (GERA), certain state and local government employees and applicants did not enjoy Federal protection against employment discrimination based on race, color, religion, sex, national origin, age, or disability. In affording these individuals new equal employment opportunity protections, GERA introduced an administrative enforcement mechanism different from EEOC's pre-existing charge resolution procedures. Consequently, EEOC created procedures for handling complaints brought by individuals covered by GERA. These procedures are found in 29 CFR Part 1603.

When 29 CFR Part 1603 was published initially, the legal citation for GERA was 2 U.S.C. 1201 *et seq.* and that part of GERA applicable to previously exempt state and local employees was 2 U.S.C. 1220. Due to a re-codification and transfer, the citations for GERA have been changed to 42 U.S.C. 2000e-16a *et seq.* and 42 U.S.C. 2000e-16c, respectively. Similarly, in accordance with an amendment to GERA, section 321 was renumbered as section 304.

Need for Revision

As published, the final regulations contain obsolete legal citations which need to be updated.

List of Subjects in 29 CFR Part 1603

Administrative practice and procedure, Equal employment opportunity, Intergovernmental relations, Investigations, State and local governments.

For the Commission.

Dated: January 24, 2007.

Naomi C. Earp,

Chair.

■ Accordingly, 29 CFR part 1603 is amended to read as follows:

PART 1603—PROCEDURES FOR PREVIOUSLY EXEMPT STATE AND LOCAL GOVERNMENT EMPLOYEE COMPLAINTS OF EMPLOYMENT DISCRIMINATION UNDER SECTION 304 OF THE GOVERNMENT EMPLOYEE RIGHTS ACT OF 1991

■ 1. The authority citation for part 1603 is revised to read as follows:

Authority: 42 U.S.C. 2000e–16c.

■ 2. The heading to part 1603 is revised to read as set forth above.

§ 1603.100 [Amended]

■ 3. Amend § 1603.100 to read as follows:

■ a. Remove ''321'' and add in its place ''304.''

■ b. Remove ''2 U.S.C. 1220'' and add in its place ''42 U.S.C. 2000e–16c.''

§ 1603.101 [Amended]

■ 4. Amend § 1603.101, introductory text, by removing ''321'' and adding in its place ''304.''

[FR Doc. E7–1932 Filed 2–6–07; 8:45 am]

BILLING CODE 6570–01–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1610

Updating Addresses of Commission's Offices in Las Vegas, Nevada and Mobile, AL

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: This final rule revises existing EEOC regulations to update two office addresses.

EFFECTIVE DATE: February 7, 2007.

FOR FURTHER INFORMATION CONTACT: Thomas J. Schlageter, Assistant Legal Counsel, (202) 663–4668, or James G. Allison, Senior Attorney, (202) 663–4661, Office of Legal Counsel, 1801 L St., NW., Washington, DC 20507. Copies of this final rule are available in the following alternate formats: large print, braille, electronic computer disk, and audio-tape. Requests for this notice in an alternative Format should be made to the Publications Center at 1–800–699–3362 (voice), 1–800–800–3302 (TTY), or 703–821–2098 (FAX—this is not a toll free number).

SUPPLEMENTARY INFORMATION: The Commission investigates and litigates charges of employment discrimination through its various offices located throughout the country. On July 8, 2005, the Commission voted to open two new local offices, one in Las Vegas, Nevada and one in Mobile, Alabama. These two new office have now been opened. This Final Rule incorporates the addresses of these newly opened offices in the Commission's regulations by modifying 29 CFR 1610.4(c) to reflect the new offices' addresses.

Regulatory Procedures

Executive Order 12866

This action pertains to agency organization, management or personnel matters and, therefore, is not a rule within the meaning of section 3(d)(3) of Executive Order 12866.

Paperwork Reduction Act

This regulation contains no new information collection requirements subject to review by the Office of Management and Budget under the

Paperwork Reduction Act (44 U.S.C. chapter 35).

Regulatory Flexibility Act

The Commission certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because it does not affect any small business entities. The regulation affects only the Equal Employment Opportunity Commission. For this reason, a regulatory flexibility analysis is not required.

Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

This action pertains to the Commission's management, personnel and organization and does not substantially affect the rights or obligations of non-agency parties and, accordingly, is not a ''rule'' as that term is used by the Congressional Review Act (Subtitle E of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA)). Therefore, the reporting requirement of 5 U.S.C. 801 does not apply.

List of Subjects in 29 CFR Part 1610

Administrative practice and procedure, Equal Employment Opportunity.

Dated: January 24, 2007.

For the Commission.

Naomi C. Earp,

Chair.

■ For the reasons set forth in the preamble, part 1610 is amended as follows:

PART 1610—AVAILABILITY OF RECORDS

■ 1. The authority citation for part 1610 continues to read as follows:

Authority: 42 U.S.C. 2000e–12(a), 5 U.S.C. 552 as amended by Pub. L. 93–502, Pub. L. 99–570, and Pub. L. 105–231; for § 1610.15, non-search or copy portions are issued under 31 U.S.C. 9701.

§ 1610.4 [Amended]

■ 2. Amend § 1610.4(c) as follows:

■ a. After the words ''Las Vegas Local Office (Los Angeles District),'' remove the words ''not yet open'' and add, in their place, the words ''333 Las Vegas Blvd. South, Suite 8112, Las Vegas, Nevada 89101.''

■ b. After the words ''Mobile Local Office (Birmingham District),'' remove the words ''not yet open'' and add, in their place, the words ''63 South Royal Street, Suite 504, Mobile, Alabama 36602.''

[FR Doc. E7–1933 Filed 2–6–07; 8:45 am]

BILLING CODE 6570–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05–06–089]

RIN 1625–AA09

Drawbridge Operation Regulations; Lewes and Rehoboth Canal, Lewes, DE and Rehoboth, DE; Mispillion River, Milford, DE

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the drawbridge operation regulations of three Delaware Department of Transportation (DelDOT) bridges: the Savannah Road/SR 18 Bridge, at mile 1.7, in Lewes, the SR 14A Bridge, at mile 6.7, in Rehoboth, and the S14 Bridge, at mile 11.0, across Mispillion River at Milford, DE. This final rule will allow the Savannah Road/SR 18 Bridge to open on signal if 4 hours advance notice is given and allow the SR 14A and S14 Bridges to open on signal if 24 hours advance notice is given. This change will provide longer advance notification for vessel openings from 4 hours to 24 hours while still providing for the reasonable needs of navigation.

DATES: This rule is effective March 9, 2007.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–06–089 and are available for inspection or copying at Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704–5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Fifth Coast Guard District maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398–6222.

SUPPLEMENTARY INFORMATION:

Regulatory History

On October 5, 2006, we published a notice of proposed rulemaking (NPRM) entitled ''Drawbridge Operation Regulation; Lewes and Rehoboth Canal, Mispillion River, DE'' in the **Federal Register** (71 FR 58776). We received one comment on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

DelDOT, who owns and operates the Savannah Road/SR 18 Bridge, at mile 1.7, in Lewes, the SR 14A Bridge, at mile 6.7, in Rehoboth, and the S14 Bridge, at mile 11.0, across Mispillion River at Milford, requested longer advance notification for vessel openings from 2 hours to 24 hours for the following reasons:

Lewes and Rehoboth Canal

In the closed-to-navigation position, the Savannah Road/SR 18 Bridge, at mile 1.7, in Lewes and the SR 14A Bridge, at mile 6.7, in Rehoboth, have vertical clearances of 15 feet and 16 feet, above mean high water, respectively. The existing operating regulation for these drawbridges is set out in 33 CFR 117.239, which requires the bridges to open on signal from May 1 through October 31 from 7 a.m. to 8 p.m. and from 8 p.m. to 7 a.m. if at least two hours notice is given. From November 1 through April 30, the draws shall open if at least 24 hours notice is given.

DelDOT provided information to the Coast Guard about the conditions and reduced operational capabilities of the draw spans. Due to the infrequency of requests for vessel openings of the drawbridge for the past 10 years, DelDOT requested that we amend the current operating regulation by requiring the draw spans to open on signal if at least 24 hours notice is given year-round.

Mispillion River

The S14 Bridge, at mile 11.0 in at Milford, has a vertical clearance of five feet, above mean high water, in the closed-to-navigation position. The existing regulation is listed at 33 CFR 117.241, which requires the bridge to open on signal if at least two hours notice is given. Due to the infrequency of requests for vessel openings of the drawbridge for the past 10 years, DelDOT requested that we amend the current operating regulation by requiring the draw spans to open on

signal if at least 24 hours notice is given year-round.

Discussion of Comments and Changes

The Coast Guard received one comment on the NPRM from the City of Lewes (the City). The City requested that, with respect to the Savannah Road/SR 18 Bridge, the Coast Guard provide for opening the bridge on four-hour notice between May 1 and October 30 of each year, instead of the 24-hour notice proposed in the NRPM.

DelDOT indicated that to ensure reliability and safe performance by bridge operators, a four to six-hour advance notice is actually needed to respond to requests by boaters. Therefore, the Coast Guard considered the change to require at least four hours advance notice by boaters to be safer and more reliable for navigation than the 24-hour proposal and the final rule was changed to reflect this modification.

Discussion of Rule

Lewes and Rehoboth Canal

The Coast Guard will revise 33 CFR 117.239, which governs the Delaware highway bridges, at miles 1.7 and 6.7, both at Rehoboth. The bridge names, the statute mile points and the localities in the paragraph will be changed from the ''Delaware highway bridges miles 2.0 and 7.0 both at Rehoboth'' to the ''Savannah Road/SR18 Bridge, at mile 1.7, in Lewes'' and the ''SR 14A Bridge, at mile 6.7, in Rehoboth''. These changes will accurately reflect the proper information for these drawbridges.

The current paragraph will be divided into paragraphs (a) and (b). Paragraph (a) will contain the final rule for the Savannah Road/SR 18 Bridge, at mile 1.7 in Lewes and will state that the draw shall open on signal if at least four hours notice is given.

Paragraph (b) will contain the final rule for the SR 14A Bridge, at mile 6.7, in Rehoboth. The final rule will require the drawbridge to open on signal if at least 24 hours notice is given.

Mispillion River

The Coast Guard will amend 33 CFR 117.241, which governs the S14 Bridge, at mile 11.0, at Milford by revising the paragraph to read that the draw shall open on signal if at least 24 hours notice is given.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

This conclusion is based on the fact that these changes have only a minimal impact on maritime traffic transiting the bridge. Mariners can plan their trips in accordance with the scheduled bridge openings, to minimize delays.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This conclusion is based on the fact the rule would not have a significant economic impact on a substantial number of small entities because the rule only adds minimal restrictions to the movement of navigation, and mariners who plan their transits in accordance with the scheduled bridge openings can minimize delay.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. No assistance was requested from any small entity.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminates ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not

require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation because it has been determined that the promulgation of operating regulations for drawbridges are categorically excluded.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. Revise § 117.239 to read as follows:

§ 117.239 Lewes and Rehoboth Canal.

(a) The draw of the Savannah Road/SR 18 Bridge, at mile 1.7, in Lewes shall open on signal if at least four hours notice is given.

(b) The draw of the SR 14A Bridge, at mile 6.7, in Rehoboth shall open on signal if at least 24 hours notice is given.

■ 3. Revise § 117.241 to read as follows:

§ 117.241 Mispillion River.

The draw of the S14 Bridge, at mile 11.0, at Milford shall open on signal if at least 24 hours notice is given.

Dated: January 25, 2007.

L.L. Hereth,

Rear Admiral, United States Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. E7–1976 Filed 2–6–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD01–06–132]

RIN 1625–AA00

Safety Zone; Wantagh Parkway 3 Bridge Over the Sloop Channel, Town of Hempstead, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the waters surrounding the Wantagh Parkway Number 3 Bridge across the Sloop Channel in Town of Hempstead, New York. This zone is necessary to protect vessels transiting in the area from hazards associated with construction barges and equipment being utilized to construct a new bascule bridge over the Sloop Channel. Entry into this zone is prohibited unless authorized by the Captain of the Port, Long Island Sound.

DATES: This rule is effective from 11:59 p.m. on January 22, 2007 until 11:59 p.m. December 31, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket CGD01–06–132 and will be available for inspection or copying at Sector Long Island Sound, New Haven, CT, between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant D. Miller, Assistant Chief, Waterways Management Division, Coast Guard Sector Long Island Sound at (203) 468–4596.

SUPPLEMENTARY INFORMATION:

Regulatory History

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. Any delay in this regulation's effective date would be impracticable and contrary to public interest since immediate action to restrict and control maritime traffic transiting in the vicinity of the Sloop Channel under the Wantagh Parkway Number 3 Bridge in the Town of Hempstead, Nassau County, Long Island, New York is needed to ensure the safety of vessels transiting the area.

In 2003, the Coast Guard approved bridge construction and issued a permit for bridge construction for the Wantagh Parkway Number 3 Bridge over the Sloop Channel. Contractors began work constructing the two bascule piers for the new bridge in early June 2004. A safety zone was not deemed necessary at the inception of the construction, as this channel is primarily used by smaller recreational vessels, which could maneuver outside of the channel. However, bridge construction equipment that remains under the Wantagh Parkway Number 3 Bridge poses a potential hazard greater than originally anticipated. A safety zone was deemed necessary and was established on October 9, 2004 through December 31, 2004, the date when construction impacting the navigable channel was estimated to be complete. A second safety zone was implemented on January 1, 2005 and extended until December 31, 2005 due to delays in construction, requiring equipment to be in the channel in a manner that would leave the waterway unsafe for marine traffic. Due to continued significant delays in bridge construction, the safety zone was again extended until December 31, 2006. The contractor for this project continues to experience significant delays in bridge construction. In order to continue construction in a more rapid and safe manner, barges will need to continuously block the channel under the bridge. Accordingly, the New York State Department of Transportation (NYSDOT) has requested that a safety zone be put in place through December 31, 2007.

As these barges are presently obstructing the navigable channel, immediate action is needed to prevent accidents by limiting vessel movement in the area with the construction equipment. Traffic exists in this area year-round and increases significantly in the summer months with the return of recreational traffic.

For the same reasons, the Coast Guard also finds under 5 U.S.C. 553(d)(3) that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

Background and Purpose

Currently, there is a fixed bridge over the Wantagh Parkway Number 3 Bridge over the Sloop Channel in the Town of Hempstead, New York. The NYSDOT determined that a moveable bridge would benefit the boating community. In 2003, the Coast Guard approved bridge construction and issued a permit for bridge construction for the Wantagh Parkway Number 3 Bridge over the Sloop Channel.

Contractors began work constructing the two-bascule piers for the new bridge in early June 2004. The equipment necessary for the construction of the bridge occupies the entire navigable channel. While there are side channels, which can be navigated, the equipment in the channel is extensive and poses a hazard to recreational vessels attempting to transit the waterway via the side channels under the bridge. Construction, requiring equipment in the navigable channel, was originally scheduled to end on December 31, 2004. Numerous delays in the construction have required construction equipment to continue to occupy the navigable channel and have required subsequent extensions of the established safety zone through December 31, 2005 and then through December 31, 2006 when the contractor continued to experience significant delays. Due to continued construction delays, the NYSDOT has requested that a safety zone be established through December 31, 2007.

To ensure the continued safety of the boating community, the Coast Guard is reestablishing the safety zone in all waters of the Sloop Channel within 300-yards of the Wantagh Parkway Number 3 Bridge. This safety zone is necessary to protect the safety of the boating community who wish to utilize the Sloop Channel. Vessels may utilize the Goose Neck Channel as an alternative route to using the Sloop Channel, adding minimal additional transit time. Marine traffic may also transit safely outside of the safety zone during the effective dates of the safety zone, allowing navigation in the Sloop Channel, except the portion delineated by this rule.

Discussion of Rule

This regulation establishes a temporary safety zone on the waters of the Sloop Channel within 300-yards of the Wantagh Parkway Bridge. This action is intended to prohibit vessel traffic in a portion of the Sloop Channel in the Town of Hempstead, New York to provide for the safety of the boating community due to the hazards posed by significant construction equipment and barges located in the waterway for the construction of a new bascule bridge.

The safety zone is being established from 11:59 p.m. on January 22, 2007, to 11:59 p.m. on December 31, 2007. Marine traffic may continue to transit safely outside of the safety zone during the effective dates of the safety zone, allowing navigation in the Sloop Channel, except the portion delineated by this rule. Entry into this zone is prohibited unless authorized by the Captain of the Port, Long Island Sound.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

We expect the economic impact of this rule will be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. This regulation may have some impact on the public, but the potential impact will be minimized for the following reasons: Vessels may transit in all areas of the Sloop Channel other than the area of the safety zone, and may utilize other routes with minimal increased transit time.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule will have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in those portions of the Sloop Channel in the Town of Hempstead, New York covered by the safety zone. For the reasons outlined in the Regulatory Evaluation section above, this rule will not have a significant impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 [Pub. L. 104–121], we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If this rule will affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call Lieutenant Junior Grade D. Miller Assistant Chief, Waterways Management Division, Coast Guard Sector Safety Office Long Island Sound at (203) 468–4596.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247).

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of

$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

To help the Coast Guard establish regular and meaningful consultation and collaboration with Indian and Alaskan Native tribes, we published a notice in the **Federal Register** (66 FR 36361, July 11, 2001) requesting comments on how to best carry out the Order. We invite your comments on how this rule might impact tribal governments, even if that impact may not constitute a ''tribal implication'' under the Order.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies. This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

The Coast Guard analyzed this rule under Commandant Instruction M16475.1D and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) 42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g) from further environmental documentation. A final ''Environmental Analysis Checklist'' and a ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T01–132 to read as follows:

§ 165.T01–132 Safety Zone: Wantagh Parkway Number 3 Bridge over the Sloop Channel, Town of Hempstead, NY.

(a) *Location:* The following area is a safety zone: All waters of the Sloop Channel in Hempstead, NY, from surface to bottom, within 300 yards of the Wantagh Parkway Number 3 Bridge over the Sloop Channel.

(b) *Effective date:* This rule is effective from 11:59 p.m. on January 22, 2007 until 11:59 p.m. December 31, 2007.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone by any person or vessel is prohibited unless authorized by the Captain of the Port (COTP), Long Island Sound.

(2) All persons and vessels must comply with the Coast Guard COTP or designated on-scene patrol personnel. On-scene Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard on board Coast Guard, Coast Guard Auxiliary, and local, State, and Federal law enforcement vessels. Upon being hailed by siren, radio, flashing light or other means from a U.S. Coast Guard vessel or other vessel with on-scene patrol personnel aboard, the operator of the vessel shall proceed as directed.

Dated: January 22, 2007.

J.J. Plunkett,

Commander, U.S. Coast Guard, Acting Captain of the Port, Long Island Sound.

[FR Doc. E7–1978 Filed 2–6–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2006–0970; FRL–8112–2]

Tris (2-ethylhexyl) Phosphate; Exemption from the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of tris (2-ethylhexyl) phosphate (TEHP, CAS Reg. No. 78–42–2) when used as an inert ingredient in pesticide formulations with the active ingredients pinoxaden, clodinafop-propargyl, and tralkoxydium, with no more than two applications per season when applied to wheat and barley up to the pre-boot

stage (prior to formation of edible grain). Syngenta Crop Protection, LLC submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), as amended by the Food Quality Protection Act of 1996 (FQPA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of TEHP.

DATES: This regulation is effective February 7, 2007. Objections and requests for hearings must be received on or before April 9, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0970. All documents in the docket are listed in the index for the docket. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The Docket Facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: R. Tracy Ward, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–9361; e-mail address: *ward.tracyh@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in [insert appropriate cite to either another unit in the preamble or a section in a rule]. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2006–0970 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before April 9, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA–HQ–OPP–2006–0970, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305–5805.

II. Background and Statutory Findings

In the **Federal Register** of August 9, 2006 (71 FR 45559) (FRL–8082–9), EPA issued a notice pursuant to section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA (Public Law 104–170), announcing the filing of a pesticide petition (PP 6E7078) by Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27410. The petition requested that 40 CFR 180.910 be amended by establishing an exemption from the requirement of a tolerance for residues of tris (2-ethylhexyl) phosphate (TEHP, CAS Reg. No. 78–42–2). That notice referenced a summary of the petition prepared by the petitioner. Syngenta Crop Protection, LLC requested the use of TEHP as an adjuvant in pesticide formulations with the active ingredients pinoxaden, clodinafop-propargyl, and tralkoxydium applied to the growing crops wheat and barley. There were no substantive comments received in response to the notice of filing.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include

occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

III. Risk Characterization and Conclusion

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by TEHP are discussed in this unit. The following provides a brief summary of the risk assessment and conclusions for the Agency's review of TEHP. The full decision document for this action is available on EPA's Electronic Docket at *http://www.regulations.gov* under docket number EPA–HQ–OPP–2006–0970.

A. Human Health

The Agency reviewed the available information submitted by the petitioner as well as additional information available to the Agency and has determined that TEHP is of low acute and subchronic oral and inhalation toxicity, but is a moderate skin irritant. TEHP is not a cancer concern, is not mutagenic and is not a neurotoxin. Although no developmental toxicity study is available on TEHP, the Agency has determined that tributyl phosphate is an acceptable analog and can be used to characterize the developmental toxicity of TEHP. Based on developmental and reproductive toxicity studies on the analog tributyl phosphate, TEHP is expected to produce developmental toxicity only at maternally toxic doses. One developmental study conducted on tributyl phosphate showed one incident of a rare fetal malformation. The observed effect is not likely to have resulted from exposure to tributyl phosphate. The petitioner has agreed to conduct an acceptable rat developmental study on TEHP and submit it to EPA within 18 months in order to confirm that this malformation is not an effect of TEHP.

The Agency concludes that dietary and drinking water exposures of concern are not anticipated from the inert ingredient use of TEHP considering its physical and chemical properties, including low volatility and rapid biodegradation, and the limitations imposed by its proposed use as an adjuvant in pesticide formulations only with the active ingredients pinoxaden, clodinafop-propargyl, and tralkoxydium, limited to no more than two applications per season on two crops, wheat and barley, up to the pre-boot stage (prior to formation of edible grain).

Residential exposures (inhalation and dermal) to TEHP are not expected due to its low volatility, limited use pattern in agricultural pesticides, and rapid biodegradation in the environment.

Taking into consideration all available information on TEHP, it has been determined that there is a reasonable certainty that no harm to any population subgroup will result from aggregate exposure to TEHP when used as an inert ingredient in pesticide formulations when considering dietary exposure and all other non-occupational sources of pesticide exposure for which there is reliable information. Therefore, the exemption from the requirement of a tolerance requested by the petitioner, Syngenta Crop Protection, LLC, for residues of TEHP, can be considered assessed as safe under section 408(q) of the FFDCA.

B. Analytical Methods

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitations.

C. International Tolerances

The Agency is not aware of any country requiring a tolerance for tris (2-ethylhexyl) phosphate nor have any CODEX Maximum Residue Levels (MRLs) been established for any food crops at this time.

IV. Conclusions

Based on the information in this preamble and in the decision document, EPA concludes that there is a reasonable certainty of no harm to the general population, including infants and children, from aggregate exposure to residues of tris (2-ethylhexyl) phosphate (TEHP). Accordingly, EPA finds that exempting TEHP from the requirement of a tolerance will be safe. EPA is establishing a tolerance exemption for TEHP on wheat and barley when it is used as an inert ingredient in pesticide formulations with the active ingredients pinoxaden, clodinafop-propargyl, and tralkoxydium. TEHP is limited to no more than two applications per season and these applications must occur no later than the pre-boot stage (prior to formation of edible grain).

V. Statutory and Executive Order Reviews

This final rule establishes an exemption from the tolerance requirement under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, *Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use* (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a petition under section 408(d) of the FFDCA, such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various

levels of government, as specified in Executive Order 13132, entitled *Federalism* (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments* (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VI. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 25, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—AMENDED

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.1274 is added to subpart D to read as follows:

§ 180.1274 Tris (2-ethylhexyl) phosphate; exemption from the requirement of a tolerance.

Tris (2-ethylhexyl) phosphate (TEHP, CAS Reg. No. 78–42–2) is exempt from the requirement of a tolerance for residues in wheat and barley when used under the following conditions:

(a) The use is in accordance with good agricultural practices;

(b) Tris (2-ethylhexyl) phosphate is used as an inert ingredient in pesticide formulations with the active ingredients pinoxaden, clodinafop-propargyl, and tralkoxydium;

(c) Tris (2-ethylhexyl) phosphate is applied no more than twice per season; and

(d) The applications occur no later than the pre-boot stage (prior to formation of edible grain).

[FR Doc. 07–460 Filed 1–30–07; 12:41 pm]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2006-0918; FRL–8110–8]

Avermectin; Pesticide Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a time-limited tolerance for combined residues of the insecticide avermectin B_1 and its delta-8,9-isomer in or on bulb onions. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of this pesticide on bulb onions. This regulation establishes a maximum permissible level for residues of avermectin in this food commodity. The tolerance expires and is revoked on December 31, 2009.

DATES: This regulation is effective February 7, 2007. Objections and requests for hearings must be received on or before April 9, 2007, and must be filed in accordance with the instructions provided in 40 CFR part 178, see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**.

ADDRESSES: EPA has established a docket for this action under docket identification (ID) number EPA-HQ-OPP-2006-0918. All documents in the docket are listed on the regulations.gov website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Andrew Ertman, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 308-9367; e-mail address: *ertman.andrew@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially

affected entities may include, but are not limited to:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Access Electronic Copies of this Document?

In addition to accessing an electronic copy of this **Federal Register** document through the electronic docket at *http://www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*. You may also access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's pilot e-CFR site at *http://www.gpoaccess.gov/ecfr*.

C. Can I File an Objection or Hearing Request?

Under section 408(g) of the FFDCA, as amended by the FQPA, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. The EPA procedural regulations which govern the submission of objections and requests for hearings appear in 40 CFR part 178. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2006-0918 in the subject line on the first page of your submission. All requests must be in writing, and must be mailed or delivered to the Hearing Clerk on or before April 9, 2007.

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing that does not contain any CBI for inclusion in the public docket that is described in **ADDRESSES**. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit your copies, identified by docket ID number EPA-HQ-OPP-2006-0918, by one of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305-5805.

II. Background and Statutory Findings

EPA, on its own initiative, in accordance with sections 408(e) and 408(l)(6) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, is establishing a time-limited tolerance for combined residues of the insecticide avermectin B_1 and its delta-8,9-isomer in or on bulb onions at 0.005 parts per million (ppm). This tolerance expires and is revoked on December 31, 2009. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR).

Section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under section 18 of FIFRA. Such tolerances can be established without providing notice or period for public comment. EPA does not intend for its actions on section 18 related tolerances to set binding precedents for the application of section 408 of the FFDCA and the new safety standard to other tolerances and exemptions. Section 408(e) of the FFDCA allows EPA to establish a tolerance or an exemption from the requirement of a tolerance on its own initiative, i.e., without having received any petition from an outside party.

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of the FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of the FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .

Section 18 of the FIFRA authorizes EPA to exempt any Federal or State agency from any provision of FIFRA, if EPA determines that ''emergency conditions exist which require such exemption.'' This provision was not amended by the Food Quality Protection Act of 1996 (FQPA). EPA has established regulations governing such emergency exemptions in 40 CFR part 166.

III. Emergency Exemption for Avermectin on Bulb Onions and FFDCA Tolerances

EPA has authorized under FIFRA section 18 the use of avermectin on bulb onions for control of thrips in Colorado. Avermectin also goes by the name abamectin, but the two names describe the same chemical. The CAS number is the same for both (71751-41-2). After having reviewed the materials submitted in support of the emergency exemption request, EPA concurred with the applicant that emergency conditions existed for this State.

As part of its assessment of this emergency exemption, EPA assessed the potential risks presented by residues of avermectin in or on bulb onions. In doing so, EPA considered the safety standard in section 408(b)(2) of the FFDCA, and EPA decided that the necessary time-limited tolerance under section 408(l)(6) of the FFDCA would be consistent with the safety standard and with FIFRA section 18. Consistent with the need to move quickly on the emergency exemption in order to address an urgent non-routine situation and to ensure that the resulting food is safe and lawful, EPA is issuing this tolerance without notice and opportunity for public comment as provided in section 408(l)(6) of the FFDCA. Although this tolerance expires and is revoked on December 31, 2009,

under section 408(l)(5) of the FFDCA, residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on bulb onions after that date will be lawful, provided the pesticide is applied at a time and in a manner that was lawful under FIFRA, and the residues do not exceed a level that was authorized by this time-limited tolerance at the time of that application. EPA will take action to revoke this time-limited tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

Because this time-limited tolerance is being approved under emergency conditions, EPA has not made any decisions about whether avermectin meets EPA's registration requirements for use on bulb onions or whether a permanent tolerance for this use would be appropriate. Under these circumstances, EPA does not believe that this time-limited tolerance serves as a basis for registration of avermectin by a State for special local needs under FIFRA section 24(c). Nor does this time-limited tolerance serve as the basis for any State other than Colorado to use this pesticide on this crop under section 18 of FIFRA without following all provisions of EPA's regulations implementing FIFRA section 18 as identified in 40 CFR part 166. For additional information regarding the emergency exemption for avermectin, contact the Agency's Registration Division at the address provided under **FOR FURTHER INFORMATION CONTACT**.

IV. Aggregate Risk Assessment and Determination of Safety

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 of the FFDCA and a complete description of the risk assessment process, see *http://www.epa.gov/fedrgstr/EPA-PEST/1997/November/Day-26/p30948.htm*.

Consistent with section 408(b)(2)(D) of the FFDCA, EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of avermectin and to make a determination on aggregate exposure, consistent with section 408(b)(2) of the FFDCA, for a time-limited tolerance for combined residues of avermectin B_1 and its delta-8,9-isomer in or on bulb onions at 0.005 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Endpoints

The dose at which no adverse effects are observed (the NOAEL) from the toxicology study identified as appropriate for use in risk assessment is used to estimate the toxicological endpoint. However, the lowest dose at which adverse effects of concern are identified (the LOAEL) is sometimes used for risk assessment if no NOAEL was achieved in the toxicology study selected. An uncertainty factor (UF) is applied to reflect uncertainties inherent in the extrapolation from laboratory animal data to humans and in the variations in sensitivity among members of the human population as well as other unknowns. An UF of 100 is routinely used, 10X to account for interspecies differences and 10X for intraspecies differences.

For dietary risk assessment (other than cancer) the Agency uses the UF to calculate an acute or chronic reference dose (acute RfD or chronic RfD) where the RfD is equal to the NOAEL divided by the appropriate UF (RfD = NOAEL/UF). Where an additional safety factor is retained due to concerns unique to the FQPA, this additional factor is applied to the RfD by dividing the RfD by such additional factor. The acute or chronic Population Adjusted Dose (aPAD or cPAD) is a modification of the RfD to accommodate this type of FQPA SF.

For non-dietary risk assessments (other than cancer) the UF is used to determine the level of concern (LOC). For example, when 100 is the appropriate UF (10X to account for interspecies differences and 10X for intraspecies differences) the LOC is 100. To estimate risk, a ratio of the NOAEL to exposures (margin of exposure (MOE) = NOAEL/exposure) is calculated and compared to the LOC.

The linear default risk methodology (Q*) is the primary method currently used by the Agency to quantify carcinogenic risk. The Q* approach assumes that any amount of exposure will lead to some degree of cancer risk. A Q* is calculated and used to estimate risk which represents a probability of occurrence of additional cancer cases (e.g., risk is expressed as 1×10^{6} or one in a million). Under certain specific circumstances, MOE calculations will be used for the carcinogenic risk assessment. In this non-linear approach, a ''point of departure'' is identified below which carcinogenic effects are not expected. The point of departure is typically a NOAEL based on an endpoint related to cancer effects though it may be a different value derived from the dose response curve. To estimate risk, a ratio of the point of departure to exposure (MOE_{cancer} = point of departure/exposures) is calculated. A summary of the toxicological endpoints for avermectin used for human risk assessment can be found in a tolerance document published on February 16, 2005, titled ''Avermectin B_1 and its delta-8,9-isomer; Pesticide Tolerance'' (70 FR7876; FRL-7695-7).

B. Exposure Assessment

1. *Dietary exposure from food and feed uses.* EPA previously established tolerances (40 CFR 180.449) for the combined residues of avermectin B_1 and its delta-8,9-isomer, in or on a variety of raw agricultural commodities. Risk assessments were conducted by EPA to assess dietary exposures from avermectin in food as follows:

i. *Acute exposure*. Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. The Dietary Exposure Evaluation Model (DEEM™) analysis evaluated the individual food consumption as reported by respondents in the USDA 1994-1996 and 1998 nationwide Continuing Surveys of Food Intake by Individuals (CSFII) and accumulated exposure to the chemical for each commodity. The following assumptions were made for the acute exposure assessments: A Tier 3, acute probabilistic dietary exposure assessment was conducted for all supported food uses and drinking water. Acute anticipated residues for many foods were derived using market basket survey, new field trial studies and food handling establishment request. Estimated concentrations of avermectin in drinking water were incorporated directly into the acute assessment.

ii. *Chronic exposure*. In conducting the chronic dietary risk assessment EPA used the DEEM/FCID which incorporates food consumption data as reported by respondents in the USDA 1994-1996 and 1998 Nationwide CSFII, and accumulated exposure to the chemical for each commodity. Percent crop treated and anticipated residues refinements were used.

A Tier 2 chronic dietary exposure assessment was conducted for the general U.S. population and various population subgroups. The assumptions of the assessment were anticipated residue estimates, percent of crop treated (PCT) estimates for most of the commodities, and default DEEM processing factors when necessary. Estimated concentrations of avermectin in drinking water were incorporated directly into the chronic assessment.

iii. *Cancer*. EPA did not perform a cancer aggregate exposure assessment because avermectin B_1 is classified as a Group E chemical and is ''not likely to be carcinogenic to humans.''

iv. *Anticipated residue and PCT information*. Section 408(b)(2)(E) of the FFDCA authorizes EPA to use available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemicals that have been measured in food. If EPA relies on such information, EPA must pursuant to section 408(f)(1) require that data be provided 5 years after the tolerance is established, modified, or left in effect, demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate. For the present action, EPA will issue such Data Call-Ins for information relating to anticipated residues as are required by FFDCA section 408(b)(2)(E) and authorized under FFDCA section 408(f)(1). Such data call-ins will be required to be submitted no later than 5 years from the date of issuance of this tolerance.

Section 408(b)(2)(F) of the FFDCA states that the Agency may use data on the actual percent of food treated for assessing chronic dietary risk only if the Agency can make the following findings: Condition 1, that the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; Condition 2, that the exposure estimate does not underestimate exposure for any significant subpopulation group; and Condition 3, if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F) of the FFDCA, EPA may require registrants to submit data on PCT.

The Agency used PCT information as follows: Almonds 21%; avocado 20%; balsam pear 1%; cantaloupe 7%; casabas 1%; chayote fruit 1%; Chinese waxgourd 1%; cotton 3%; cress (garden, upland) 1%; cucumber 1%; grape 6%; hops 82%; honeydew melon 1%; plum 1%; pumpkin 1%; squash 1%; strawberry 44%; walnut 2%; watermelon 7%.

The Agency believes that the three conditions listed above have been met. With respect to Condition 1, PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. EPA uses a weighted average PCT for chronic dietary exposure estimates. This weighted average PCT figure is derived by averaging State-level data for a period of up to 10 years, and weighting for the more robust and recent data. A weighted average of the PCT reasonably represents a person's dietary exposure over a lifetime, and is unlikely to underestimate exposure to an individual because of the fact that pesticide use patterns (both regionally and nationally) tend to change continuously over time, such that an individual is unlikely to be exposed to more than the average PCT over a lifetime. For acute dietary exposure estimates, EPA uses an estimated maximum PCT. The exposure estimates resulting from this approach reasonably represent the highest levels to which an individual could be exposed, and are unlikely to underestimate an individual's acute dietary exposure. The Agency is reasonably certain that the percentage of the food treated is not likely to be an underestimation. As to Conditions 2 and 3, regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which avermectin may be applied in a particular area.

2. *Dietary exposure from drinking water*. The Agency lacks sufficient monitoring exposure data to complete a comprehensive dietary exposure analysis and risk assessment for avermectin in drinking water. Because the Agency does not have comprehensive monitoring data, drinking water concentration estimates are made by reliance on simulation or modeling taking into account data on the physical characteristics of avermectin. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm*.

Tier II screening models PRZM (Pesticide Root Zone Model) and EXAMS (Exposure Analysis Modeling System) were used to determine estimated surface water concentrations of avermectin based on the modeled scenario of one seed treatment to cucumbers followed by 3 aerial applications at a 7–day interval in Florida. This use of abamectin represents the worst case potential contribution of abamectin to drinking water when considering currently registered uses, including this one.

The full PRZM/EXAMS distribution was used for the acute dietary assessment, and the 1-in-10 year annual mean concentration of 0.244 ppm was used for chronic dietary estimates. Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model.

3. *From non-dietary exposure*. The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (e.g., for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Avermectin is currently registered for use on the following residential non-dietary sites: Residential lawn application for fire ant control and residential indoor crack and crevice application for cockroaches and ants. These registered residential uses may result in short-term to intermediate-term exposures; however, based on current use patterns, long-term exposure (6 or more months of continuous exposure) to avermectin is not expected. Adults may be exposed through handling the pesticide and both adults and children may be exposed through contact with treated areas following application. Accordingly, handler and post-application exposures were assessed for two major categories of residential avermectin use which are considered to represent the reasonable high-end residential exposure potential: Granular baits used to treat lawns, and indoor crack and crevice dust products.

4. *Cumulative effects from substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of

toxicity, EPA has not made a common mechanism of toxicity finding as to avermectin and any other substances and avermectin does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that avermectin has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the policy statements released by EPA's Office of Pesticide Programs concerning common mechanism determinations and procedures for cumulating effects from substances found to have a common mechanism on EPA's website at *http://www.epa.gov/pesticides/cumulative/*.

C. Safety Factor for Infants and Children

In general. Section 408 of the FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans.

For avermectin B_1 EPA retained the default 10X factor based on the following combination of factors:

- There is residual uncertainty due to a data gap for a developmental neurotoxicity study (DNT), as well as data gaps for acute and subchronic neurotoxicity studies. These studies are required because avermectin B_1 has been shown to be neurotoxic, with multiple neurotoxic clinical signs (including head and body tremors and limb splay) seen in multiple studies with multiple species.
- For several species, the dose-response curve appears to be steep.
- Severe effects were seen at the LOAELs in several studies (death, neurotoxicity, and developmental toxicity). Although increased susceptibility of the young was observed in several studies, the degree of concern with that susceptibility was judged to be low. Increased susceptibility (qualitative and/or quantitative) was seen in prenatal developmental toxicity studies in CD-1 mice and rabbits following *in utero* exposure to avermectin B_1. There was also an increase in quantitative and qualitative susceptibility in the rat reproductive toxicity study. The concern for susceptibility seen in the developmental study with rabbits and in the reproductive toxicity study in the rat is low because the lowest NOAEL obtained (0.12 milligrams/kilogram/day (mg/kg/day)) was used as the basis for the cRfD and other non-dietary risk assessment scenarios, which is protective of all of the developmental/offspring effects seen in those studies. Similarly, the concern for susceptibility seen at the LOAEL in the CD-1 mouse developmental toxicity study is low, since the NOAEL in the rat reproductive toxicity study is lower than the dose at which effects were seen in the CD-1 mouse.

D. Aggregate Risks and Determination of Safety.

The Agency currently has two ways to estimate total aggregate exposure to a pesticide from food, drinking water, and residential uses. First, a screening assessment can be used, in which the Agency calculates drinking water levels of comparison (DWLOCs) which are used as a point of comparison against estimated drinking water concentrations (EDWCs). The DWLOC values are not regulatory standards for drinking water, but are theoretical upper limits on a pesticide's concentration in drinking water in light of total aggregate exposure to a pesticide in food and residential uses. More information on the use of DWLOCs in dietary aggregate risk assessments can be found at *http://www.epa.gov/oppfead1/trac/science/screeningsop.pdf*.

More recently the Agency has used another approach to estimate aggregate exposure through food, residential and drinking water pathways. In this approach, modeled surface and ground water EDWCs are directly incorporated into the dietary exposure analysis, along with food. This provides a more realistic estimate of exposure because actual body weights and water consumption from the CSFII are used. The combined food and water exposures are then added to estimated exposure from residential sources to calculate aggregate risks. The resulting exposure and risk estimates are still considered to be high end, due to the assumptions used in developing drinking water modeling inputs. The risk assessment for avermectin used in this tolerance document uses this approach of incorporating water exposure directly into the dietary exposure analysis.

1. *Acute risk*. Using the exposure assumptions discussed in this unit for acute exposure, the acute dietary exposure from food and water to avermectin will occupy 42% of the aPAD for the U.S. population, 7% of the aPAD for females 13 years and older, 89% of the aPAD for all infants less than 1-year old and 71% of the aPAD for children 1-2 years old.

2. *Chronic risk*. Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that exposure to avermectin from food will utilize 9% of the cPAD for the U.S. population, 21% of the cPAD for all infants less than 1 year old and 21% of the cPAD for children 1-2 years old. Based on the use pattern, chronic residential exposure to residues of avermectin is not expected..

3. *Short-term and intermediate-term risk*. Short-term and intermediate-term aggregate exposure takes into account residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Avermectin is currently registered for use(s) that could result in short-term and intermediate-term residential exposure and the Agency has determined that it is appropriate to aggregate chronic food and water and short-term and intermediate-term exposures for avermectin.

Using the exposure assumptions described in this unit for short-term and intermediate-term exposures, EPA has concluded that food, water and residential exposures aggregated result in the following aggregate MOEs: 2,900 for the U.S. population, and 1,700 for children 1-2 years old. These aggregate MOEs do not exceed the Agency's level of concern of 1,000 for aggregate exposure to food, water and residential uses.

4. *Aggregate cancer risk for U.S. population*. EPA has not performed a cancer aggregate risk assessment because avermectin has been classified as a Group E chemical by the Agency and is ''not likely to be carcinogenic to humans.''

5. *Determination of safety*. Based on these risk assessments which indicate that all avermectin risks are below the Agency's levels of concern, EPA concludes that there is a reasonable certainty that no harm will result to the general population, and to infants and children from aggregate exposure to avermectin residues.

V. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft.

Meade, MD 20755-5350; telephone number: (410) 305-2905; e-mail address: *residuemethods@epa.gov*.

B. International Residue Limits

There are no CODEX residue limits for residues of avermectin on onions, therefore, harmonization is not an issue.

VI. Conclusion

Therefore, the time-limited tolerance is established for combined residues of the insecticide avermectin B_1 (a mixture of avermectins containing greater than or equal to 80% avermectin B_{1a} (5-O-demethyl avermectin A_1) and less than or equal to 20% avermectin B_{1b} (5-O-demethyl-25-de(1-methylpropyl)-25-(1-methylethyl) avermectin A_1)) and its delta-8,9-isomer, in or on bulb onions at 0.005 ppm. The time-limited tolerance expires and is revoked on December 31, 2009.

VII. Statutory and Executive Order Reviews

This final rule establishes a time-limited tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). Because this rule has been exempted from review under Executive Order 12866 due to its lack of significance, this rule is not subject to Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, May 22, 2001). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 et seq., or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104-4). Nor does it require any special considerations under Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994); or OMB review or any Agency action under Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997). This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104-113, section 12(d) (15 U.S.C. 272 note). Since tolerances and exemptions that are established on the basis of a FIFRA section 18 exemption under section 408 of the FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.) do not apply. In addition, the Agency has determined that this action will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, entitled Federalism (64 FR 43255, August 10, 1999). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' This final rule directly regulates growers, food processors, food handlers, and food retailers, not States. This action does not alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of section 408(n)(4) of the FFDCA. For these same reasons, the Agency has determined that this rule does not have any ''tribal implications'' as described in Executive Order 13175, entitled Consultation and Coordination with Indian Tribal Governments (65 FR 67249, November 6, 2000). Executive Order 13175, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and the Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.'' This rule will not have substantial direct effects on tribal governments, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified in Executive Order 13175. Thus, Executive Order 13175 does not apply to this rule.

VIII. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this final rule in the **Federal Register**. This final rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 24, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

■ Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.449 is amended by adding text after the heading in paragraph (b) to read as follows:

§ 180.449 Avermectin B_1 and its delta-8,9-isomer; tolerances for residues.

* * * * *

(b) *Section 18 emergency exemptions.* Time-limited tolerances are established for the residues of avermectin B_1 and it delta-8,9-isomer, in connection with use of the pesticide under section 18 emergency exemptions granted by EPA. The tolerances are specified in the following table. The tolerances will expire on the dates specified in the table.

Commodity	Parts per million	Expiration/revocation date
Onion, bulb	0.005	12/31/09

* * * * *

[FR Doc. E7–2003 Filed 2–6–07; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

44 CFR Part 64

[Docket No. FEMA–7961]

Suspension of Community Eligibility

AGENCY: Mitigation Division, Federal Emergency Management Agency, DHS.

ACTION: Final rule.

SUMMARY: This rule identifies communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are scheduled for suspension on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will not occur and a notice of this will be provided by publication in the **Federal Register** on a subsequent date.

EFFECTIVE DATES: The effective date of each community's scheduled suspension is the third date (''Susp.'') listed in the third column of the following tables.

ADDRESSES: If you want to determine whether a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office.

FOR FURTHER INFORMATION CONTACT: David Stearrett, Mitigation Division, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2953.

SUPPLEMENTARY INFORMATION: The NFIP enables property owners to purchase flood insurance which is generally not otherwise available. In return, communities agree to adopt and administer local floodplain management aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage as authorized under the NFIP, 42 U.S.C. 4001 *et seq.*; unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed in this document no longer meet that statutory requirement for compliance with program regulations, 44 CFR part 59 *et seq.* Accordingly, the communities will be suspended on the effective date in the third column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register**.

In addition, FEMA has identified the Special Flood Hazard Areas (SFHAs) in these communities by publishing a Flood Insurance Rate Map (FIRM). The date of the FIRM, if one has been published, is indicated in the fourth column of the table. No direct Federal financial assistance (except assistance pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act not in connection with a flood) may legally be provided for construction or acquisition of buildings in identified SFHAs for communities not participating in the NFIP and identified for more than a year, on FEMA's initial flood insurance map of the community as having flood-prone areas (section 202(a) of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4106(a), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column. The Administrator finds that notice and public comment under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified.

Each community receives 6-month, 90-day, and 30-day notification letters addressed to the Chief Executive Officer stating that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. Since these notifications were made, this final rule may take effect within less than 30 days.

National Environmental Policy Act. This rule is categorically excluded from the requirements of 44 CFR part 10, Environmental Considerations. No environmental impact assessment has been prepared.

Regulatory Flexibility Act. The Administrator has determined that this rule is exempt from the requirements of the Regulatory Flexibility Act because the National Flood Insurance Act of 1968, as amended, 42 U.S.C. 4022, prohibits flood insurance coverage unless an appropriate public body adopts adequate floodplain management measures with effective enforcement measures. The communities listed no longer comply with the statutory requirements, and after the effective date, flood insurae will no longer be available in the communities unless remedial action takes place.

Regulatory Classification. This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

Executive Order 13132, Federalism. This rule involves no policies that have federalism implications under Executive Order 13132.

Executive Order 12988, Civil Justice Reform. This rule meets the applicable standards of Executive Order 12988.

Paperwork Reduction Act. This rule does not involve any collection of information for purposes of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

■ Accordingly, 44 CFR part 64 is amended as follows:

PART 64—[AMENDED]

■ 1. The authority citation for part 64 is revised to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp.; p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp.; p. 376.

§ 64.6 [Amended]

■ 2. The tables published under the authority of § 64.6 are amended as follows:

State and location	Community No.	Effective date authorization/cancellation of sale of flood insurance in community	Current effective map date	Date certain Federal assistance no longer available in SFHAs
Region IV				
North Carolina:				
Carrboro, Town of, Orange County	370275	July 7, 1975, Emerg; June 25, 1976, Reg; February 2, 2007.	Feb. 2, 2007	Feb. 2, 2007.
Chapel Hill, Town of, Orange County ...	370180	February 9, 1973, Emerg; April 16, 1978, Reg; February 2, 2007.	.....do*	Do.
Chatham County, Unincorporated Areas	370299	March 4, 1997, Emerg; March 4, 1997, Reg; February 2, 2007.	.....do*	Do.
Hillsborough, Town of, Orange County	370343	April 6, 1977, Emerg; May 15, 1980, Reg; February 2, 2007.	.....do*	Do.
Orange County, Unincorporated Areas	370342	July 15, 1975, Emerg; March 16, 1981, Reg; February 2, 2007.	.....do*	Do.
Sanford, City of, Lee County	370143	December 19, 1973, Emerg; May 2, 1977, Reg; February 2, 2007.	.....do*	Do.
Siler City, Town of, Chatham County	370058	July 2, 1987, Emerg; June 23, 1975, Reg; February 2, 2007.	.....do*	Do.
Region VII				
Wichita, City of, Sedgwick County	200328	March 24, 1972, Emerg; May 15, 1986, Reg; February 2, 2007.	.....do*	Do.
Region VIII				
Wyoming: Sundance, Town of, Crook County.	560017	April 30, 1975, Emerg; August 19, 1986, Reg; February 2, 2007.	.....do*	Do.

*Do=Ditto.
Code for reading third column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension.

Dated: February 2, 2007.

David I. Maurstad,

Mitigation Division Director, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. E7–1989 Filed 2–6–07; 8:45 am]

BILLING CODE 9110–12–P

FEDERAL COMMUNICATION COMMISSION

47 CFR Part 0

[DA 07–101]

Freedom of Information Act

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Federal Communications Commission is modifying a section of the Commission's rules that implement the Freedom of Information Act (FOIA) Fee Schedule. This modification pertains to the charge for recovery of the full, allowable direct costs of searching for and reviewing records requested under the FOIA and the Commission's rules, unless such fees are restricted or waived. The fees are being revised to correspond to modifications in the rate of pay approved by Congress.

DATES: Effective February 7, 2007.

FOR FURTHER INFORMATION CONTACT: Shoko B. Hair, Freedom of Information Act Public Liaison, Office of Performance Evaluation and Records Management, Room 1–A827, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, (202) 418–1379 or via Internet at *shoko.hair@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Federal Communications Commission is modifying § 0.467(a) of the Commission's rules. This rule pertains to the charges for searching and reviewing records requested under the FOIA. The FOIA requires federal agencies to establish a schedule of fees for the processing of requests for agency records in accordance with fee guidelines issued by the Office of Management and Budget (OMB). In 1987, OMB issued its Uniform Freedom of Information Act Fee Schedule and Guidelines. However, because the FOIA requires that each agency's fees be based upon its direct costs of providing FOIA services, OMB did not provide a unitary, government-wide schedule of fees. The Commission based its FOIA Fee Schedule on the grade level of the employee who processes the request. Thus, the Fee Schedule was computed at a Step 5 of each grade level based on the General Schedule effective January 1987 (including 20 percent for personnel benefits). The Commission's rules provide that the Fee Schedule will be modified periodically to correspond with modifications in the rate of pay approved by Congress. *See* 47 CFR 0.467(a)(1) note.

In an Order adopted on January 25, 2007 and released on February 1, 2007 (DA 07–101), the Managing Director revised the schedule of fees set forth in 47 CFR 0.467 for the recovery of the full, allowable direct costs of searching for and reviewing agency records requested pursuant to the FOIA and the Commission's rules, 47 CFR 0.460, 0.461. The revisions correspond to modifications in the rate of pay, which was approved by Congress.

These modifications to the Fee Schedule do not require notice and comment because they merely update the Fee Schedule to correspond to modifications in rates of pay, as required under the current rules. The Commission will not distribute copies of this Order pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because the rules are a matter of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties.

Accordingly, pursuant to the authority contained in § 0.231(b) of the Commission's rules, 47 CFR 0.231(b), *It is hereby ordered,* that, effective on February 7, 2007, the Fee Schedule contained in § 0.467 of the Commission's rules, 47 CFR § 0.467, is amended, as described herein.

List of Subjects in 47 CFR Part 0

Freedom of information.

Federal Communications Commission.

Anthony J. Dale,

Managing Director.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 0 as follows:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for part 0 continues to read as follows:

Authority: 47 U.S.C. 155, unless otherwise noted.

■ 2. Section 0.467 is amended by revising the table following paragraph (a)(1) and its note, and by revising paragraph (a)(2) to read as follows:

§ 0.467 Search and review fees.

(a)(1) * * *

Grade	Hourly fee
GS–1	12.85
GS–2	13.99
GS–3	15.77
GS–4	17.70
GS–5	19.80
GS–6	22.07
GS–7	24.53
GS–8	27.17
GS–9	30.00
GS–10	33.04
GS–11	36.30
GS–12	43.51
GS–13	51.74
GS–14	61.14
GS–15	71.92

Note: These fees will be modified periodically to correspond with modifications in the rate of pay approved by Congress.

(2) The fees in paragraph (a)(1) of this section were computed at Step 5 of each grade level based on the General Schedule effective January 2007 and include 20 percent for personnel benefits.

* * * * *

[FR Doc. 07–534 Filed 2–6–07; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket No. 03–201; FCC 04–165]

Unlicensed Devices and Equipment Approval

AGENCY: Federal Communications Commission.

ACTION: Correcting amendment.

SUMMARY: On September 7, 2004, the Commission released a Report and Order in the matter of ''Unlicensed Devices and Equipment Approval.'' This document contains corrections to the final regulations that appeared in the **Federal Register** of September 7, 2004 (69 FR 54027).

DATES: Effective October 7, 2004.

FOR FURTHER INFORMATION CONTACT: Nancy J. Brooks, Office of Engineering and Technology, (202) 418–2454.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction relate to ''Unlicensed Devices and Equipment Approval'' under § 15.247 of the rules.

Need for Correction

As published, the final regulations contain an error, which requires immediate correction.

List of Subjects in 47 CFR Part 15

Communications equipment.

■ Accordingly, 47 CFR part 15 is corrected by making the following correcting amendments:

PART 15—RADIO FREQUENCY DEVICES

■ 1. The authority citation for part 15 continues to read as follows

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, and 544A.

§ 15.247 [Amended]

■ 2. Section 15.247 is amended by removing paragraph (b)(5) and by revising paragraph (e) and by adding paragraph (i) to read as follows:

* * * * *

(e) For digitally modulated systems, the power spectral density conducted from the intentional radiator to the antenna shall not be greater than 8 dBm in any 3 kHz band during any time interval of continuous transmission. This power spectral density shall be determined in accordance with the provisions of paragraph (b) of this section. The same method of determining the conducted output power shall be used to determine the power spectral density.

* * * * *

(i) Systems operating under the provisions of this section shall be operated in a manner that ensures that the public is not exposed to radio frequency energy levels in excess of the Commission's guidelines. *See* § 1.1307(b)(1) of this chapter.

* * * * *

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–1993 Filed 2–6–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

49 CFR Parts 1515, 1540, and 1572

[Docket No. TSA–2006–24191; TSA Amendment Nos. 1515—(New), 1540–8, 1570–2, and 1572–7]

RIN 1652–AA41

Transportation Worker Identification Credential Implementation in the Maritime Sector; Hazardous Materials Endorsement for a Commercial Driver's License; Correction

AGENCY: Transportation Security Administration (TSA).

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final rule published in the **Federal Register** on January 25, 2007. That rule requires credentialed merchant mariners and workers with unescorted access to secure areas of vessels and facilities to undergo a security threat assessment and receive a biometric credential, known as a Transportation Worker Identification Credential (TWIC). This rule correction revises a paragraph of the appeal and waiver process in part 1515. In addition, this rule correction redesignates a paragraph in part 1540 under the procedures for security threat assessment and revises text in part 1572 concerning the list of disqualifying offenses. These revisions are necessary to correct typographical errors and in one instance, to remove a word from a definition as mandated by recent legislative action.

DATES: Effective March 26, 2007.

FOR FURTHER INFORMATION CONTACT: Christine Beyer, TSA–2, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220; telephone (571) 227–2657; facsimile (571) 227–1380; e-mail *Christine.Beyer@dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

On January 25, 2007, the Department of Homeland Security, through TSA and the U.S. Coast Guard (Coast Guard) published a final rule in the **Federal Register** (72 FR 3492) making technical

changes to various provisions of chapter XII, title 49 (Transportation) of the Code of Federal Regulations (CFR), and implementing the TWIC program in the maritime sector of the nation's transportation system. The final rule enhances port security by requiring security threat assessments of individuals who have unescorted access to secure areas and improving access control measures to prevent unauthorized individuals from gaining unescorted access to secure areas. The final rule amends existing appeal and waiver procedures, and expands the provisions to apply to TWIC applicants and air cargo personnel.

This rule correction document revises a paragraph in the appeal and waiver process codified in part 1515, redesignates a paragraph codified in part 1540 procedures for security threat assessment, and revises text in the list of disqualifying offenses codified in part 1572. Finally, we re-word the definition of ''transportation security incident'' in § 1572.103(a)(5). This definition is based on the definition of ''transportation security incident'' in 46 U.S.C. 70101(6), which was amended by sec. 124 of the SAFE Port Act, Public Law 109–347. We are amending the rule to conform to that statute.

Correction

■ In rule FR Doc. 07–19, published on January 25, 2007 (72 FR 3492), make the following corrections:

§ 1515.11 [Corrected]

■ 1. On page 3590, in the third column, paragraph (b)(1)(i) under § 1515.11 Review by administrative law judge and TSA Final Decision Maker, is corrected to read as follows:

§ 1515.11 Review by administrative law judge and TSA Final Decision Maker.

* * * * *

(b) * * *

(1) * * *

(i) In the case of a review of a denial of waiver, a copy of the applicant's request for a waiver under 49 CFR 1515.7, including all materials provided by the applicant to TSA in support of the waiver request; and a copy of the decision issued by TSA denying the waiver request. The request for review may not include evidence or information that was not presented to TSA in the request for a waiver under 49 CFR 1515.7. The ALJ may consider only evidence or information that was presented to TSA in the waiver request. If the applicant has new evidence or information, the applicant must file a new request for a waiver under § 1515.7 and the pending request for review of a denial of a waiver will be dismissed.

* * * * *

§ 1540.205 [Corrected]

■ 2. On page 3593 in the first column, redesignate paragraph (e) as paragraph (d) under § 1540.205 Procedures for security threat assessment.

§ 1572.103 [Corrected]

■ 3. On page 3600, in the second column, paragraphs (a)(5) and (a)(10) under § 1572.103 Disqualifying criminal offenses, are corrected to read as follows:

§ 1572.103 Disqualifying criminal offenses.

* * * * *

(a) * * *

(5) A crime involving a transportation security incident. A transportation security incident is a security incident resulting in a significant loss of life, environmental damage, transportation system disruption, or economic disruption in a particular area, as defined in 46 U.S.C. 70101. The term ''economic disruption'' does not include a work stoppage or other employee-related action not related to terrorism and resulting from an employer-employee dispute.

* * * * *

(10) Violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. 1961, *et seq.*, or a comparable State law, where one of the predicate acts found by a jury or admitted by the defendant, consists of one of the crimes listed in paragraph (a) of this section.

* * * * *

■ 4. On pages 3600 in the third column and page 3601 in the first column, paragraphs (b)(2)(xii) through (xiii) under § 1572.103 Disqualifying criminal offenses, are corrected to read as follows:

§ 1572.103 Disqualifying criminal offenses.

* * * * *

(b) * * *

(2) * * *

(xii) Fraudulent entry into a seaport as described in 18 U.S.C. 1036, or a comparable State law.

(xiii) Violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. 1961, *et seq.*, or a comparable State law, other than the violations listed in paragraph (a)(10) of this section.

* * * * *

Issued in Arlington, Virginia, on February 1, 2007.

Mardi Ruth Thompson,

Deputy Chief Counsel for Regulations, Transportation Security Administration.

[FR Doc. E7–1952 Filed 2–6–07; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 223 and 635

[Docket No. 060313062–7010–02; I.D. 082305E]

RIN 0648–AT37

Atlantic Highly Migratory Species; Atlantic Commercial Shark Management Measures; Gear Operation and Deployment; Complementary Closures

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: This final rule will implement additional handling, release, and disentanglement requirements for sea turtles and other non-target species caught in the commercial shark bottom longline (BLL) fishery. These requirements increase the amount of handling, release, and disentanglement gear that are required to be on BLL vessels and are intended to reduce post hooking mortality of sea turtles and other non-target species consistent with the Highly Migratory Species (HMS) Fishery Management Plan (FMP). This final rule will also implement management measures, consistent with those recommended by the Caribbean Fishery Management Council (CFMC) and implemented by NMFS on October 28, 2005, that prohibit vessels issued HMS permits with BLL gear onboard from fishing in six distinct areas off the U.S. Virgin Islands and Puerto Rico, year-round. These six closures are intended to minimize adverse impacts to Essential Fish Habitat (EFH) for reef-dwelling species.

DATES: This final rule is effective March 9, 2007.

ADDRESSES: Copies of the Final Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (Final EA/RIR/FRFA) can be obtained from LeAnn S. Hogan, Highly Migratory Species Management Division at 1315 East-West Highway, Silver Spring, MD 20910.

Other related documents including copies of the document entitled ''Careful Release Protocols for Sea Turtle Release with Minimal Injury'' may be obtained from the mailing address listed above, and are also available on the internet at *http://www.nmfs.noaa.gov/sfa/hms*. Copies of the documents supporting the actions contained in the Comprehensive Amendment to the Fishery Management Plans of the U.S. Caribbean may be obtained by contacting Steve Branstetter, Southeast Regional Office, 263 13th Ave. South, St. Petersburg, FL 33701; telephone 727–824–5305.

FOR FURTHER INFORMATION CONTACT: LeAnn S. Hogan or Karyl Brewster-Geisz by phone: 301–713–2347 or by fax: 301–713–1917.

SUPPLEMENTARY INFORMATION:

The Atlantic shark fishery is managed under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The HMS FMP is implemented by regulations at 50 CFR part 635. The fisheries for spiny lobster, queen conch, reef fish, and corals and reef-associated invertebrates in the exclusive economic zone (EEZ) off Puerto Rico and off the U.S. Virgin Islands are managed under fishery management plans prepared by the CFMC. These fishery management plans are implemented under the authority of the Magnuson-Stevens Act by regulations at 50 CFR part 622.

Background

On March 29, 2006 (71 FR 15680), NMFS published a rule that proposed certain dehooking equipment be on vessels with shark BLL gear on board. Additionally, the rule proposed closing certain areas in the Caribbean to vessels with shark BLL gear on board. NMFS examined several alternatives, the details of which are outlined in the proposed rule and are not repeated here.

As noted in the proposed rule, an objective of the 2003 final rule (December 24 2003; 68 FR 74746) implementing Amendment 1 to the FMP for Atlantic Tunas, Swordfish, and Sharks, was to minimize, to the extent practicable, bycatch of living marine resources and the mortality of such bycatch that cannot be avoided in the fisheries for Atlantic sharks. The rule implementing Amendment 1 finalized measures that required the use of non-stainless steel, corrodible hooks aboard shark BLL fishing vessels, the possession of release equipment (line cutters and dipnets, both with extended reach handles), and also required BLL vessels to immediately release any sea turtle, marine mammal, or smalltooth sawfish that is hooked or entangled and then move at least one nautical mile (2 km) before resuming fishing activities. At that time, NMFS had not yet approved dehooking devices for sea turtles. Therefore, implementation of the measure was delayed pending approval.

The purpose of this today's final rulemaking is to update the necessary equipment and protocols that vessel operators in the BLL fishery must possess, maintain, and utilize for the safe handling, release, and disentanglement of sea turtles and other non-target species. Significant new information, techniques, and equipment have been approved and implemented for the pelagic longline (PLL) fishery since NMFS enacted the dehooking requirements for the BLL fishery. Participants in the PLL fishery are required to possess, maintain, and utilize a suite of NMFS-approved handling and dehooking equipment when engaged in fishing activities (July 6, 2004; 69 FR 40734). Research conducted in the Northeast Distant statistical reporting area (NED) has indicated that removing the maximum amount of gear from sea turtles significantly increases post-release survival. Dehooking devices that meet NMFS design standards are necessary for removal of fishing gear and are now available to release sea turtles.

Another objective of this final rule is to implement measures that are complementary to CFMC-recommended measures that NMFS implemented on October 28, 2005 (70 FR 62073). These measures will prohibit vessels issued HMS permits with BLL gear onboard from fishing in six distinct areas off the U.S. Virgin Islands and Puerto Rico, year-round. These six closures should minimize adverse impacts to EFH and reduce fishing mortality for mutton snapper, red hind, and other reef-dwelling species. Scoping hearings for the Comprehensive Amendment to the FMPs of the Caribbean, including the BLL closures in this rulemaking, were conducted from June 4 - 12, 2002, in Puerto Rico and the U.S. Virgin Islands. The Environmental Protection Agency published a notice of availability (NOA) of the Draft Supplemental Environmental Impact Assessment (DSEIS) in the **Federal Register** on March 18, 2005 (70 FR 13190). The final supplemental environmental impact statement for the Comprehensive Amendment to the FMPs of the Caribbean was filed with the Environmental Protection Agency on June 17, 2005, with the NOA published on June 24, 2005 (70 FR 36581). Based on recent guidance NMFS hopes to publish a proposed rule on equipment that would allow the dehooking of smalltooth sawfish.

Response to Comments

The public comment period for the proposed rule (March 29, 2006; 71 FR 15680) was open from March 29 to June 27, 2006. During that time, NMFS held five public hearings and received several written comments. A summary of the major comments received, along with NMFS response, is provided below.

Comment 1: Several commenters urged NMFS to mandate training in sea turtle handling techniques for all BLL fishermen by requiring them to attend workshops similar to those for PLL; BLL fishermen should carry ''Careful Release Protocols for Release with Minimal Injury'' onboard but this is not a substitute for hands on training; NMFS should consider whether sea turtle resuscitation techniques similar to those used for sea turtles caught by vessels fishing for shrimp are appropriate for BLL; all BLL vessel owners, operators, and observers (and as many crew as possible) should attend a certification level workshop in order to achieve the same level of proficiency as the Northeast Distant (NED) experiment; NMFS must be sensitive to fishing schedules when scheduling workshops; and NMFS might consider having a sticker on vessels whose owners/operators have completed the safe handling and release workshops; and NMFS could accelerate the learning process by educating the recreational sector about these protocols for reducing post release mortality of various sea life.

Response: NMFS agrees that hands-on training on safe handling and release protocols for sea turtles and other protected resources is invaluable. The Final Consolidated HMS FMP and its final rule (October 2, 2006; 71 FR 58058) require all PLL and BLL longline and shark gillnet vessel owners and operators to attend, and successfully complete, workshops on the safe handling and release of protected resources before renewing their permit in 2007. While participants in other HMS fisheries, including HMS Angling and Charter/headboats (CHB) categories are not required to attend, the Agency is encouraging their participation to better understand the materials and protocols available for reducing post-hooking mortality of protected species and other non-target catch. Additional information on the safe handling and release workshops can be found in the Consolidated HMS FMP. Workshop schedules can be found on the HMS website at *http://www.nmfs.noaa.gov/*

sfa/hms/workshops/index.htm. Currently, all participants in the Atlantic BLL and PLL fisheries are required to follow resuscitation requirements as stated in § 223.206(d)(1). These requirements would not change as a result of this rulemaking.

Comment 2: Several comments were received relating to observer coverage in HMS fisheries, including: increase observer coverage to at least 10 percent; estimates of take and mortality in the PLL fishery have been underestimated; turtles caught on BLL are more susceptible to drowning; are observers put on boats from Virginia northward or Panama City westward?; the extrapolated takes that create the Incidental Take Statement (ITS) seem too high, especially for smalltooth sawfish that occur in a small portion of the Atlantic; the number of takes reported by the observer program has been questioned in the past; why not show the observed number of takes rather than the extrapolated numbers?

Response: Currently, the Agency maintains observer coverage levels that are consistent with the National Bycatch Report and in compliance with the 2003 Biological Opinion (BiOp) for the shark fisheries. Vessels are randomly selected for observer coverage based on region, recent landings, recent selection for observer coverage, and whether they have a valid HMS permit. From 1994 through 2001, the shark BLL observer program was a voluntary program and the observers only went on vessels that agreed to take them. Thus, the data for this time period was not based on a random selection process and did not cover the entire range of the fishery. However, it did cover vessels operating in the major fishing grounds off Florida and North Carolina. In 2002, the observer program became mandatory, with vessels selected randomly across areas based on historic participation patterns. Therefore, vessels in all regions, including those from Virginia northward and from Panama City, FL, westward, are required to carry an observer, if selected. The Incidental Take Statement (ITS) for smalltooth sawfish and sea turtles was determined by the NMFS Office of Protected Resources during the 2003 consultation in conjunction with measures contained in Amendment 1 to the FMP for Atlantic Tunas, Swordfish and Shark (December 24, 2003; 68 FR 74746). The ITS for shark fisheries was based on the extrapolated takes including associated mortalities for the BLL and gillnet fishery. Extrapolated takes were determined based on interaction rates reported in the BLL observer data from 1994 through 2002 in relation to fishing effort data (i.e., number of hooks) based on data from the Coastal Fisheries logbook (Gulf of Mexico reef fish, South Atlantic snapper-grouper, king and Spanish mackerel, and shark logbook) and HMS logbook for trips that reported using BLL gear and landing sharks.

Comment 3: Nesting declines identified in the northern sub-population of loggerhead sea turtles are alarming; western Atlantic loggerhead sea turtles are in clear decline; the southern loggerhead sea turtle nesting subpopulation has declined 29 percent in last 17 years; green and leatherback sea turtle nesting has been increasing dramatically since 1989; and fisheries in the western and eastern Atlantic appear to have a significant impact on Florida's nesting loggerhead sea turtles.

Response: NMFS and the U.S. Fish and Wildlife Service (USFWS) share responsibility for threatened and endangered sea turtles. In general, marine-related activities, such as fishing, are within the purview of NMFS, whereas, terrestrial activities are within the purview of USFWS. The Endangered Species Act (ESA) requires that federal agencies ensure that the actions that they authorize, fund, or conduct do not jeopardize the continued existence of these species. Recovery plans including terrestrial and marine issues for leatherback and loggerhead sea turtles have been in place for several years. The BiOp issued in October 2003 found that Atlantic shark BLL fisheries are not likely to jeopardize the continued existence of any species of sea turtles under NMFS' purview, however, incidental takes of sea turtles (primarily loggerhead and leatherback sea turtles) are anticipated. Finally, the measures selected in this final rule are expected to reduce the post-hooking mortality of sea turtles that are hooked or entangled in the BLL fishery for Atlantic sharks by requiring participants to possess, maintain, and utilize the necessary equipment to remove as much gear as possible from sea turtles to enhance their post-hooking survival and recovery rates.

Comment 4: NMFS received a variety of comments in support of the preferred alternative for gear deployment and operation and some of the benefits of using the dehooking equipment. The comments included: the Agency must also provide an incentive to use the dehooking gear; this equipment was originally designed in the shark fishery; vessels will save time re-rigging and costs by retrieving the hooks with the handling and release equipment; fishermen in Ecuador have been using the dehooking equipment to retrieve hooks which saves them money; and we support all technology that is developed in collaboration with industry.

Response: NMFS agrees that using the dehooking gear can be beneficial to both the fisherman in terms of saved hooks and sea turtles. The selected alternative for gear deployment maintains consistency between the requirements for safe handling, release, and disentanglement of sea turtles and other protected resources caught in Atlantic PLL and BLL fisheries. This equipment was developed in collaboration with the PLL industry. Updating the requirements for the Atlantic shark BLL fishery is necessary to reduce the post-hooking mortality of sea turtles while increasing the likelihood that the ITS for this fishery is not exceeded in the future. Incentives for fishermen to use the dehooking equipment include, but are not limited to, improving the ability of fishermen to retrieve hooks and fishing equipment, which may result in less time spent re-rigging and/or reduced expenditures for hooks.

Comment 5: NMFS received several comments about the estimated costs of procuring the required dehooking equipment, both to individuals and to the shark BLL industry as a whole, including: NMFS should emphasize that BLL operators could reduce costs of required equipment under the preferred alternative by making most of the equipment themselves; a significant portion of the 284 vessels referred to in the draft EA already have PLL permits and already have the equipment, therefore the estimated economic impact associated with the preferred alternative of $71,900 to $138,400 seems high.

Response: NMFS has stated that BLL operators may construct any of the dehooking equipment required by this rule themselves as long as the equipment meets the design standards at 50 CFR 635.21. NMFS also assumes that numerous participants already possess some of the equipment required by this rulemaking, including: bolt cutters, monofilament line cutters, needle nose pliers, standard automobile tire or other comparable surface for immobilizing and elevating turtles, certain mouth gags (nylabone, hank of rope, piece of PVC), and a boat hook or gaff for pulling an inverted ''V'' on entangled turtles, thereby minimizing the economic impacts of compliance with this rulemaking. NMFS derived the estimate of 284 vessel owners that could potentially be impacted by this rulemaking from the 555 directed and incidental shark permit holders that possessed permits in April 2006. Of those vessels, 284 did not have a

directed or incidental swordfish permit. An incidental or directed swordfish permit would be necessary to fish with PLL gear, and those permitted vessels would already be required to possess, maintain, and utilize the equipment and protocols prescribed in this rulemaking. NMFS agrees that this may be an overestimate, as it does not account for latent effort in BLL and PLL fisheries. However, inactivity in the recent past would not exempt permit holders from the need to procure the required equipment before fishing in the future.

Comment 6: NMFS received several comments about the current requirements for dehooking equipment in the Atlantic shark BLL fishery, including: all BLL vessels should already have line cutters, dipnets, bolt cutters, hank of rope, and a wooden brush; NMFS' estimates of costs for the various alternative (high and low end costs) assume that all, or most of the vessels under and over 4 ft have not been in compliance with Amendment 1 (required dipnet and line cutters); are BLL vessels currently required to carry a dipnet?; and many BLL vessel operators do not know about the dipnet requirement.

Response: The cost estimates that NMFS provided in the draft Environmental Assessment (EA) and proposed rule (March, 29, 2006; 71 FR 15680) assumed that all vessels in the Atlantic shark BLL fishery are in compliance with the current equipment requirements for that fishery, which include possession of a long-handled dipnet and linecutter. Costs of compliance included a low-end and a high-end estimate for complying with the range of alternatives considered for this rulemaking. For the preferred alternative, these estimates were between $253.25 and $977.30 and may vary depending on the vessel's freeboard height, what equipment the vessel operator already possesses, whether or not the operators choose to construct some of the materials themselves, and where operators acquire their equipment. The current requirement to possess long-handled dipnets and linecutters for release and disentanglement of sea turtles was included in Amendment 1 to the HMS FMP (December 24, 2003; 68 FR 74746).

Comment 7: NMFS received a variety of comments related to bycatch, National Standard 9 of the Magnuson-Stevens Act, and dehooking requirements in other HMS-managed fisheries, including: according to National Standard 9 of the Magnuson-Stevens Act, NMFS must reduce bycatch, but if NMFS cannot reduce bycatch, it must reduce the mortality of bycatch; the recreational sector cannot reduce bycatch so they must reduce the mortality of bycatch, thus, the recreational sector should have the same requirements put on them regarding safe handling and release of protected species as does the commercial sector; there may be significant interactions with protected species and recreational shark anglers and in the Charter Headboat (CHB) industry; a precautionary/pro-active approach would require the use of comparable handling and release technologies within the recreational hook and line fishery as is required for the commercial PLL and BLL sectors; all commercial fisheries (vertical line, CHB, and tournaments) should be required to utilize the same safe handling and release equipment — all these fisheries have post-release mortality issues that could be solved with the equipment; the recreational sector is by far the largest user group; technology is being transferred from one gear sector to another (PLL to BLL and CHB) and that is the way it should be; as owners, operators, and mates become more proficient at using careful handling and release equipment, they will be safely releasing numerous other non-targeted species and protected resources with the same sea turtle release equipment, which will benefit the conservation efforts of many other fisheries.

Response: The requirements to possess, maintain, and utilize additional dehooking, disentanglement, and safe release equipment were not analyzed for fisheries outside of the Atlantic shark BLL fishery in this rulemaking. The Agency is aware of interactions with sea turtles and other protected resources that may occur outside of the Atlantic shark BLL fishery, including recreational rod and reel fisheries. However, the Agency does not have specific data on interaction rates in these fisheries as they have not been historically selected for observer coverage or required to submit logbooks. While the workshops required by the 2006 Consolidated HMS FMP are only required for vessel owners and operators in the HMS longline and gillnet fisheries, participants in other HMS fisheries (HMS Angling, Charter Headboat, and General Category) are also encouraged to attend these workshops as their participation will enhance their understanding of the materials and protocols available for reducing post-hooking mortality of protected species and other non-target catch.

Comment 8: NMFS received comments regarding the role of the Magnuson-Stevens Act and the International Commission for the Conservation of Atlantic Tunas (ICCAT), including: these are two management entities that are designed to protect U.S. fishermen; we need to sustain U.S. quotas; we cannot transfer handling and release technologies if the United States has no quota; the U.S. fishermen have been environmentally friendly at the expense of their quotas; and most sea turtle bycatch occurs internationally, and why do other countries take sea turtles while the United States does not?

Response: NMFS agrees that the Magnuson-Stevens Act and ICCAT are designed to protect fisheries resources and their participants that depend on these resources. This rulemaking did not consider any alternatives that would affect U.S. quotas of any species, ICCAT-managed or otherwise. Currently, sharks are not managed by specific total allowable catches (TAC) or quotas implemented by ICCAT. The dehooking, disentanglement, and release requirements specified in the selected alternative are being implemented to comply with the October 2003 BiOp and to maintain consistency among HMS longline fisheries.

Comment 9: NMFS received a comment stating that new handling and release requirements should be considered when future BiOps and ITSs are established.

Response: Any existing regulations that may affect the post-hooking survival of sea turtles or other threatened and endangered species will likely be considered in future interagency consultations (i.e., Section 7 of the ESA) on the Atlantic shark BLL fishery as well as other HMS fisheries.

Comment 10: NMFS received a comment asking where the information on turtle takes in the BLL fishery comes from.

Response: The ITS is established during a Section 7 consultation with the NMFS Office of Protected Resources. The data used to determine the extrapolated takes and ITS for the BLL fishery are outlined in the response to Comment 2. These limits represent the number of total estimated takes, based on extrapolated observed takes. The October 2003 BiOp considered each gear type (gillnet and BLL) independently. If the actual calculated incidental captures or mortalities exceed the amount estimated for a gear type, the NMFS Office of Sustainable Fisheries must immediately reinitiate consultation with the NMFS Office of Protected Resources for that gear type.

Comment 11: NMFS received several comments related to the complementary management measures for the Caribbean

region, including: why are Caribbean BLL closures lumped into this rule?; Does NMFS regulate the Caribbean?; and does Puerto Rico have a 200 mile Exclusive Economic Zone (EEZ) and does this rule affect them?

Response: In addition to the dehooking, handling, and release requirements for Atlantic shark BLL fisheries, this rulemaking would also implement complementary measures per the request of the CFMC. These measures would prohibit all vessels that have been issued HMS permits with BLL gear onboard from fishing with, or deploying, any fishing gear in six distinct areas off the U.S. Virgin Islands and Puerto Rico, year-round, to protect EFH of reef-dwelling fish species. The final rule that implemented similar measures for fisheries managed by the CFMC was published on October 28, 2005 (70 FR 62073). These measures are being included in this rulemaking because they are germane to the Atlantic shark BLL fishery. However, the impacts associated with these measures are not expected to be significant as there is only one documented commercial shark permit in the Caribbean region. NMFS, in cooperation with the CFMC, regulates Federal fisheries off the coasts of Puerto Rico and the U.S. Virgin Islands because they are U.S. territories. This rule would affect Puerto Rico in the U.S. EEZ beyond the limit of their coastal waters, which extend out to 9 miles.

Comment 12: NMFS received comments on the protocols for vessel operators if they interact with a marine mammal or sea turtle, including: if you interact with a marine mammal, can you just move the animal one mile instead of the vessel? and if a sea turtle is comatose, is it still necessary to relocate the animal one mile?

Response: If vessel operators interact with a marine mammal, smalltooth sawfish or a sea turtle, Federal regulations at 50 CFR 635.21(d)(2), require them to immediately release the animal, retrieve the BLL gear, and move at least 1 nautical mile (2 km) from the location of the incident before resuming fishing. Reports of marine mammal entanglements must be submitted to NMFS consistent with the regulations in 50 CFR 229.6. It is important to note that the vessel should move 1 nautical mile (2 km) before resuming fishing, rather than moving the animal. Comatose sea turtles must be resuscitated according to the regulations at 50 CFR 223.206. Once sea turtles are revived, they must be released over the stern of the boat, only when fishing or scientific collection gear is not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels.

Comment 13: Is NMFS going to subsidize or pay for the purchase of dehooking equipment?

Response: NMFS does not have any plans to subsidize the purchase of dehooking equipment for participants in the Atlantic shark BLL fishery. The costs of compliance with this rulemaking can be minimized by fishermen making some of the required equipment themselves, provided it meets the design standards in 50 CFR 635.21 and outlined in Appendix A of the EA for this rulemaking.

Comment 14: NMFS received a comment about consistency between the dehooking regulations proposed by the Gulf of Mexico Fishery Management Council (GOMFMC) in Amendment 18A to the Reef Fish Fishery Management Plan (August 9, 2006; 71 FR 45428), which would update the dehooking requirements for commercial Atlantic shark fishermen deploying BLL gear. The commenter noted that the requirements were different while they should be the same.

Response: NMFS is aware of the final rule updating handling and dehooking requirements for sea turtles and smalltooth sawfish in compliance with a BiOp issued in conjunction with Amendment 18A of the Reef Fish FMP (August 9, 2006; 71 FR 45428). There are some differences in the dehooking equipment that are required per the regulations for Amendment 18A of the Reef Fish FMP, compared to the requirements selected in this rulemaking. The measures selected in this action were designed to maintain compliance with the October 2003 BiOp that was issued in conjunction with Amendment 1 to the FMP for Atlantic Tunas, Swordfish and Sharks and to maintain consistency with regulations that are currently in effect for the HMS PLL fishery. There are numerous individuals who deploy both BLL and PLL often on the same trip, targeting different species. Therefore, it seems prudent to maintain the same requirements for all HMS-managed longline fisheries regardless of what other fisheries management entities are implementing. All vessels that possess a commercial HMS shark permit would be required to abide by the regulations selected in this rulemaking when BLL gear is onboard, despite the fact that they may possess additional permits for fisheries conducted in the Gulf of Mexico. In addition, if BLL fishermen fulfill the regulations selected in this rulemaking, they would also be compliant with the final dehooking measures for Amendment 18A.

Comment 15: NMFS received several comments seeking clarification as to how the preferred alternative, which would require Atlantic shark fishermen with BLL gear onboard to possess, maintain, and utilize additional safe handling and release equipment consistent with the requirements for the PLL fishery and comply with handling and release guidelines, differs from alternative 2, which would require Atlantic shark fishermen with BLL gear onboard to possess, maintain, and utilize additional equipment for the safe handling, release, and disentanglement of sea turtles, marine mammals, smalltooth sawfish, and other bycatch dependent on the vessels' freeboard height. Additionally, the following comments were received regarding the preferred alternative, including: would everyone be required to possess a six foot or longer dehooker under the preferred alternative?; since the preferred alternative would require the same safe handling and dehooking protocols for the BLL fishery as the PLL fishery, there should not be any enforceability issues; and the definition of freeboard height may result in some enforcement issues.

Response: The selected alternative would require all HMS permit holders with BLL gear onboard to possess, maintain, and utilize the same equipment and protocols required in the PLL fishery. Required equipment includes: long-handled dehookers for ingested and external hooks, a long-handled device to pull an inverted ''V'', long-handled dipnet, short-handled dehooker for ingested and external hooks, bolt cutter, monofilament line cutter, needle nose pliers, standard automobile tire (or comparable cushioned elevated surface), two types of mouth openers/gags, and the Careful Release Protocols for Sea Turtle Release with Minimal Injury (SEFSC–524). Under the selected alternative, all long-handled equipment must be a minimum of 6 feet (1.82 m) in length or 150 percent of freeboard height. The primary difference between the selected alternative and non-preferred alternative 2, is that alternative 2 would require vessels to possess, maintain, and utilize additional long-handled equipment dependent on the vessels' freeboard height. Vessels with a freeboard height of 4 feet (1.22 m) or less would not be required to possess, maintain, and utilize the long-handled dehookers for ingested and external hooks or the long-handled device to pull an inverted ''V'' but would be required to have the rest of the dehooking equipment onboard. Vessels with a freeboard height greater

than 4 feet (1.22 m) would be required to possess the same equipment as required in the preferred alternative, however, the long-handled equipment that they are required to possess would only have to be 6 feet in length and not 150 percent of the freeboard height.

Comment 16: NMFS received a comment asking whether all of the data used for the analysis for this rule was taken from BLL boats.

Response: The data employed for this rule was attained from both the Atlantic shark BLL fishery and the PLL fishery. NMFS used the best available data for this rulemaking. These data included the number of HMS permits and location of HMS permit holders as of October 2005, commercial landings from the 2004 Coastal Fisheries logbooks, ex-vessel prices for shark products as of 2003, and extrapolated estimates from observer data are from 1994 - 2002.

Comment 17: The biggest killers of sea turtles are shrimp boats operating within 15 miles of the U.S. coast. The turtles bounce through several Turtle Exclusion Devices (TED) and become disoriented and lethargic afterwards.

Response: NMFS is aware of sea turtle interactions in the shrimp fishery. The annual anticipated incidental take levels are much greater in the shrimp fishery than both BLL and PLL fisheries. The shrimp fishery operates within the confines of their specific BiOp, and turtle takes in that fishery are outside the objectives of this rulemaking.

Comment 18: A lot of people did not show up at this hearing because they went through a voluntary BLL dehooking workshop last year in Madeira Beach with Charlie Bergmann.

Response: The NMFS Point Of Contact for safe handling, release, and disentanglement, held nine voluntary workshops in 2005 (May 20, 2005; 70 FR 29285) for participants in the BLL fishery to become more adept at sea turtle handling release and disentanglement protocols. NMFS commends those fishermen who attended the voluntary BLL handling, release, and disentanglement workshops. However, the public hearings for this proposed rule served a different purpose - it provided a forum for NMFS to explain and obtain important input from fishermen and other constituents regarding management measures that the Agency was considering regarding commercial Atlantic shark fishery management. This rulemaking will implement the handling, release, and disentanglement requirements for the Atlantic shark BLL fishery that had previously been voluntary. NMFS attempts to schedule public meetings at times that are conducive to constituent participation and sends out notices in addition to publishing FR notices that announce the time and place of hearings. In addition, NMFS informs key points of contacts and HMS Advisory Panel members in each region to announce the time and place of hearings in those regions. However, the Agency is interested in getting feedback from constituents regarding outreach and how it can better inform participants about the rulemaking process pending changes in their fisheries.

Comment 19: A six foot handle length should be a minimum for all long-handled equipment.

Response: The preferred alternative would require that all long-handled equipment be 6 feet (1.82 m) or 150 percent of the vessel's freeboard height.

Comment 20: I fished off Cape Canaveral for years and never heard of a turtle being caught on BLL gear. Hooking sea turtles is what leads to time/area closures.

Response: Interactions between sea turtles and BLL gear are sporadic and dependent upon time of year, oceanographic conditions, fishing techniques, and other factors. Reducing sea turtle bycatch and bycatch mortality is important to maintain compliance with the ESA and relevant BiOps. Interaction rates with sea turtles are one of many considerations for implementing additional time/area closures as a fishery management tool; however, as was done with the rulemaking that established dehooking and safe handling techniques for the PLL fishery (July 6, 2004; 69 FR 40734), NMFS seeks alternative management measures to time/area closures to decrease interactions with protected species with fishing gears and/or increase post-release survival of protected species once they have interacted with fishing gear.

Comment 21: Most BLL fishermen deploy cable, and not monofilament line, so NMFS cannot assume that PLL and BLL are being deployed by the same vessel on any given trip.

Response: Data collected from the commercial shark fishery observer program indicated that in 2005, approximately 24 percent of observed longline sets deployed cable line, 72 percent deployed monofilament, and approximatley 3 percent deployed a combination of monofilament and cable. Additionally, the PLL observer program has observed trips that use both PLL and BLL and such trips are reported in logbooks.

Comment 22: Sometimes an inexperienced person with dehooking equipment is more dangerous to the fish than someone who does not attempt to pull the hook out themselves.

Response: NMFS requires mandatory workshops resulting in certification on the safe handling, release, and disentanglement techniques as part of the Final Consolidated HMS FMP (October 2, 2006; 71 FR 58058). These hands-on workshops provide training on the proper techniques for using the required safe handling and release equipment, which would prevent bycatch and protected species from sustaining additional injuries as a result of attempted dehooking or disentanglement.

Comment 23: NMFS received numerous comments regarding the safety of fishermen while using safe handling and release protocols for sea turtles and confusion resulting from the terminology used to describe the requirements in the proposed rule. The comments included: the guidelines are confusing describing protocols that are required and that are not required; It would be valuable to have uniform (and intuitive) terminology to describe the protocols used in outreach materials so that fishermen know what is required and what is not, especially in situations where risks are involved; handling and release requirements pose a risk to safety of life at sea; the handling and release requirements should clearly state that they are to be employed only ''when practicable''; the documents speak towards risk to turtles but they do not speak towards risk to humans during the procedures — a comparable caveat would be appropriate for any aspect of the disentanglement or line cutting; future mandatory workshops should discuss safety issues posed to humans while attempting to employ the handling and release requirements.

Response: NMFS currently has protocols for how to safely dehook, disentangle, and release sea turtles and smalltooth sawfish that are caught in the PLL fishery. This rulemaking requires that these protocols for safe handling, release, and disentanglement are also mandatory for the BLL shark fishery. These protocols were developed to minimize risks to fishermen while attempting to employ the required equipment and guidelines. NMFS expects fishermen to disentangle and dehook a protected species (and/or bycatch) to the best of their ability and safety. For example, NMFS has protocols for smaller sea turtles that can be boated as well as separate protocols for sea turtles too large and dangerous to be boated.

The Agency also uses consistent terminology for protocols and outreach

materials. In this rulemaking, NMFS has based the disentanglement, safe handling, and release requirements for protected species on the requirements in the PLL fishery to maintain consistency between the two HMS fisheries. In addition, the Agency provides placards, video demonstrations, and illustrations of these protocols in Vietnamese, Spanish, and English and is conducting workshops to certify fisherman in the use of the equipment.

Changes from Proposed Rule

There are no changes from the proposed rule (March 29, 2006; 71 FR 15680).

Classification

This final rule is published under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.*

The final rule implementing management measures specific to Council-managed species was determined to be significant for purposes of Executive Order 12866. This final rule, which would close complementary areas for HMS fisheries and require dehooking equipment for BLL fishermen, has been determined to be not significant for purposes of Executive Order 12866.

In compliance with 5 U.S.C. 604, a Final Regulatory Flexibility Analysis (FRFA) was prepared for this rule. The FRFA analyzes the anticipated impacts of the preferred alternatives and any significant alternatives to the final rule that could minimize significant economic impacts on small entities. Each of the statutory requirements of section 604 has been addressed, and a summary of the FRFA is provided below.

NMFS also prepared a FRFA for the final rule that implemented the management measures in the Comprehensive Amendment to the Caribbean FMPs. The FRFA incorporated the Initial Regulatory Flexibility Act analysis (IRFA) published on September 13, 2005 (70 FR 53979), a summary of the significant issues raised by the public comments in response to the IRFA, NMFS' response to public comments on the IRFA, and a summary of the analyses completed to support that action. No comments were received in response to the IRFA that related to HMS fisheries. The IRFA prepared for the action in this final rule (March 29, 2006; 71 FR 15680) incorporated by reference, the findings of the FRFA published on October 28, 2005 (70 FR 62073), and describes the economic impact this action, if adopted, would have on small entities participating in HMS fisheries.

Section 604(a)(1) requires the agency to state the objective and need for the rule. As stated in the preamble and in the proposed rule (March 29, 2006; 71 FR 15680), one objective of this final rulemaking is to update necessary equipment and protocols that vessel operators in the BLL fishery must possess, maintain, and utilize for the safe handling, release and disentanglement of sea turtles and other non-target species. Another objective of this final rule is to implement measures that are complementary to CFMC-recommended measures that NMFS implemented on October 28, 2005 (70 FR 62073).

Section 604(a)(2) requires the Agency to summarize significant issues raised by the public comments in response to the IRFA, a summary of the assessment of the Agency of such issues, and a statement of any changes made in the rule as a result of such comments. NMFS received several comments on the proposed rule and draft EA during the public comment period. A summary of these comments and the Agency's responses are included in this final rule. NMFS did not receive any comments specific to the Initial Regulatory Flexibility Analysis (IRFA), but did receive a limited number of comments related to economic issues and concerns. These comments are responded to with the other comments (see Comments 4, 5, 6, and 13). The specific economic concerns are also summarized here.

NMFS received several comments regarding the estimated costs of procuring the required dehooking equipment, both to individuals and to the shark BLL industry as a whole, including: NMFS should emphasize that BLL operators could reduce costs of required equipment by making most of the equipment themselves; and a significant portion of the 284 vessels already have PLL permits and already have the equipment, therefore the estimated economic impact associated with the preferred alternative of $71,900 to $138,400 seems high.

NMFS has stated that BLL operators may construct dehooking equipment as long as it meets design standards at 50 CFR 635.21(c). NMFS also assumes that numerous BLL participants already possess some of the equipment required by this rulemaking which would minimize economic impacts of this final rulemaking. NMFS estimates the number of vessel owners that could potentially be impacted by this rulemaking to be 284. This estimate is derived because 284 of the 555 incidental and directed shark permit holders do not have a directed or incidental swordfish permit. An incidental or directed swordfish permit would be necessary to fish with PLL gear and these vessels would already be required to possess, maintain and utilize the equipment and protocols prescribed in this final rulemaking. NMFS agrees that this may be an overestimate, as it does not account for latent effort in BLL and PLL fisheries. However, whether permit holders had been inactive in the recent past would not exempt them from the need to procure the required equipment before fishing in the future.

Finally, a comment was received asking NMFS if they were going to subsidize or pay for the purchase of dehooking equipment.

NMFS does not have any plans to subsidize the purchase of dehooking equipment for participants in the Atlantic shark BLL fishery. The costs of compliance with this rulemaking can be minimized by fisherman making some of the required equipment themselves, provided it meets the design standards in 50 CFR 635.21(c) and outlined in Appendix A of the EA for this rulemaking.

No changes were made in the rule as a result of these comments. The comments provided did not warrant additional means of minimizing economic impacts while meeting the objectives of this rule.

Section 604(a)(3) requires the Agency to describe and estimate the number of small entities to which the final rule will apply. NMFS considers all permit holders to be small entities as reflected in the Small Business Administrations (SBA) criteria (gross receipts less than $3.5 million, the SBA size standard for defining a small versus large business entity). As of October 2005, there were approximately 235 directed shark permit holders and 320 incidental shark permit holders for a total of 555 permit holders who are authorized to fish for sharks. NMFS considers the 284 shark permit holders that do not also hold swordfish permits to be the universe of permit holders that will be affected by this final rulemaking.

The complementary measures implemented by the CFMC that are included in this rulemaking for Atlantic HMS fishermen will result in six, year-round, BLL gear closures. This could potentially impact all 555 directed and incidental shark fishermen. However, NMFS assumes that shark fishermen residing outside of the Caribbean region would not travel to this region to target sharks due to the extensive distances involved. Therefore, only one incidental shark fishing permit holder and one shark dealer permit holder (both in the U.S. Virgin Islands) may be directly

affected by these measures. There are no shark limited access permit holders or shark dealer permit holders in Puerto Rico.

Other sectors of HMS fisheries such as dealers, processors, bait houses, and gear manufacturers, some of which are considered small entities, might be indirectly affected by the final regulations. However, the final rule does not apply directly to them. Rather it applies only to permit holders and fishermen.

Section 604(a)(4) requires the agency to describe the projected reporting, recordkeeping, and other compliance requirements of the final rule, including an estimate of the classes of small entities which will be subject to the requirements of the report or record. The preferred alternative for additional requirements for safe handling and release of sea turtle and other non-target species in this document will result in additional equipment and compliance requirements for vessels fishing with shark BLL gear. However, there will be no change in projected reporting or recordkeeping requirements.

Section 604(a)(5) requires the Agency to describe the steps taken to minimize the significant economic impact on small entities consistent with the stated objectives of applicable statutes. Additionally, the RFA (5 U.S.C. 603(c)(1)-(4)) lists four general categories of ''significant'' alternatives that would assist an agency in the development of significant alternatives. These categories of alternatives are:

1. Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

2. Clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;

3. Use of performance rather than design standards; and

4. Exemptions from coverage of the rule for small entities.

As noted earlier, NMFS considers all permit holders to be small entities. In order to meet the objectives of this final rule, consistent with Magunson-Stevens Act, ATCA, and the ESA, NMFS cannot exempt small entities or change the reporting requirements only for small entities. Additionally, the handling and release gear requirements would not be effective with different compliance requirements. Thus, there are no alternatives discussed which fall under the first and fourth categories described above. In addition, none of the alternatives considered would result in modifications to reporting or compliance requirements (category two above). All alternatives considered are based on design standards rather than performance standards; fishermen would be in compliance with the final rulemaking as long as they possess gear and utilize gear that conforms to the design specifications located in Appendix A of the EA for this rulemaking for the safe handling, release, and disentanglement of protected resources. Any item may be constructed or purchased and used by fisherman provided that it meets the design standards listed at 50 CFR 635.21(c). When new items are certified, a notice in the **Federal Register** will be published. As described below, NMFS analyzed three different alternatives in this final rulemaking and provides justification for selection of the preferred alternative to achieve the desired objectives.

The alternatives include: Alternative 1 (A1), maintaining the current requirements in the Atlantic shark BLL fishery for safe handling, release, and disentanglement of protected resources (status quo); Alternative 2 (A2), requiring Atlantic shark fishermen with BLL gear onboard to possess, maintain, and utilize certain safe handling, release, and disentanglement of protected resources gears based on freeboard height; and Alternative 3 (A3), the preferred alternative, requiring Atlantic shark fishermen with BLL gear onboard to possess, maintain, and utilize all the equipment that is currently required for the HMS PLL fishery regardless of vessel freeboard height.

A1 would maintain status quo in the Atlantic shark BLL fishery for safe handling, release, and disentanglement of protected resources. The costs for A1 (approximately $120-$370) represent the cost BLL fishermen have already incurred to comply with HMS BLL regulations for the safe handling, release, and disentanglement of sea turtles, smalltooth sawfish, and other protected resources. Additional economic impacts would not be expected relative to the status quo for the fishery. However, adverse economic impacts could result if no action is taken to reduce sea turtle bycatch mortality because continued operation of the shark fishery is contingent upon compliance with the 2003 BiOp. Sea turtles could have significantly lower post-release survival if hooks and associated fishing gear are not removed; removing fishing hooks and associated gear could help reduce post-release mortality and help the fishery stay below the incidental take limits for the fishery. This could avoid more restrictive regulations to reduce sea turtle bycatch.

The economic impact of A2 depends on freeboard height of the Atlantic shark BLL vessel. The estimated costs range from $152 for low-end priced equipment on vessels with a freeboard four feet (1.22 m) or less to $477 for high-end priced equipment on vessels with a freeboard height greater than four feet (these costs do not include current requirements for the BLL fishery as outlined in A1). The immediate economic impacts of A2 are slightly less than those of the preferred alternative. However, unlike A3, which will require Atlantic shark fishermen with BLL gear onboard to possess, maintain, and utilize all the equipment that is currently required for the HMS PLL fishery, under A2, BLL fishermen and crew would not be able to move to the PLL fishery as easily because they would not have all the required dehooking equipment for that fishery. Therefore, in the long-term, under A3 Atlantic shark fishermen with BLL gear will not have to purchase different equipment in order to participate in the PLL fishery.

The dehooking equipment requirement under A2 would depend on the vessel's freeboard height, as certain long-handled equipment would not be necessary for vessels with a smaller freeboard (4 feet (1.22 m) or less). The 4 foot or less freeboard height was chosen as the threshold for not needing long-handled dehookers because it is assumed that the handle length of a short-handled dehooker in addition to a fisherman's arm length would be sufficient for reaching and dehooking non-boated sea turtles and other protected resources. However, the majority of sea turtles that would interact with Atlantic BLL fisheries are large juvenile loggerhead and adult leatherback sea turtles. Large juvenile loggerheads and adult leatherback sea turtles would most likely be too large to be boated, requiring dehooking to occur while the sea turtles remain in the water (i.e., small sea turtles can be boated and short-handled dehookers can be used to remove hooks). If long-handled dehookers might facilitate improved hook removal, release, or disentanglement of larger turtles (and research in the NED for the PLL fishery has shown that some turtles released alive may subsequently die from hook ingestion, trailing gear, or injuries suffered when entangled in gear), A2 would have less of an ecological benefit compared to A3.

A3, the preferred alternative, will require Atlantic shark fishermen with BLL gear onboard to possess, maintain,

and utilize all the equipment that is currently required for the HMS PLL fishery regardless of vessel freeboard height. NMFS preferred this alternative because it would improve post-hooking survival of sea turtles, smalltooth sawfish, and other protected resources and maintain consistency between the PLL and BLL fisheries. This alternative would have positive ecological impacts and negative short-term economic impacts. A3 is estimated to have an economic impact of a minimum of $253 to $487 for vessels with a freeboard height of four feet (1.22 m) or less. This range represents the range of low-end and high-end priced gears (see Table 6.2 and Table 6.4 in Chapter 6). Larger economic impacts are expected for Atlantic shark fishermen with vessels with freeboard heights greater than four feet (and costs will be dependent on freeboard height due to variable costs of long-handled dehooking gears; Table 6.2).

However, reducing mortality of sea turtles, smalltooth sawfish, and other protected resources is an integral part of maintaining compliance with the relevant BiOp. Consistent with the October 29, 2003, BiOp, NMFS is required to ensure that fishermen handle protected species taken during fishing activities in such a way as to increase their chances of survival. The final rule that implemented NMFS-approved dehooking, disentanglement, and release gear and protocols on all vessels with PLL onboard represents the most up to date scientific information regarding protocols for maximizing post-hooking survival of protected species. Because of the similarities between these fisheries and the fact that many vessel operators and owners fish with both BLL and PLL gear, NMFS is selecting the alternative (A3) that would enable Atlantic shark fishermen with BLL gear onboard to follow the protocols and possess the equipment necessary for the PLL fishery, easing determination of compliance for both fishermen and enforcement. This could also provide fishermen with the flexibility to change between PLL and BLL gear without additional cost. The final rule will allow Atlantic shark fishermen with BLL gear onboard to construct additional equipment themselves provided it meets design specifications. Such construction could reduce economic impacts. In addition, most fishermen have bolt cutters, needle nose pliers, monofilament cutters, boat hooks, and some mouth gags (i.e., the wooden handle of a wire brush, hank of rope, etc) already onboard their vessel, so these items would not have to be purchased. The cost of dehooking gear and time and effort involved in properly dehooking animals may be offset by gaining efficiency in not having to re-rig fishing equipment, and economic gain from retrieving hooks. Such gain could be substantial given an average price for a circle hook is $2.24 (ranging from $0.30 to $7.00 each), and an average price of a J-hook is $2.70 (ranging from $0.50 to $7.50 each) (NMFS, 2005).

The measures implemented by the CFMC are intended to minimize adverse impacts to EFH (coral and hard bottom habitat), to the extent practicable, as a result of bottom tending gear. This final rule will implement six closures off the U.S. Virgin Islands and Puerto Rico, preventing HMS permit holders with BLL gear onboard their vessels, from deploying, or fishing with any fishing gear in these closed areas. These closures are expected to have de minimus impacts on HMS permit holders in the Caribbean region. There are no other alternatives that would achieve the objective of minimizing adverse impacts of bottom fishing on EFH. Additional detail and analysis is included in the FSEIS for the Comprehensive Amendment to the Fishery Management Plans of the U.S. Caribbean and the final rule implementing these measures for council managed fisheries.

This final rule contains no new collection of information requirements subject to review and approval by OMB under PRA.

List of Subjects

50 CFR Part 223

Endangered and threatened species, Exports, Imports, Transportation.

50 CFR Part 635

Fisheries, Fishing, Fishing Vessels, Foreign Relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: February 1, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

■ For reasons set out in the preamble, 50 CFR part 223, chapter II, and part 635, chapter VI, are amended as follows:

CHAPTER II

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*

■ 2. In § 223.206, paragraph (d)(1)(ii) is revised to read as follows:

§ 223.206 Exceptions to prohibitions relating to sea turtles.

* * * * *

(d) * * *

(1) * * *

(ii) In addition to the provisions of paragraph (d)(1)(i) of this section, a person aboard a vessel in the Atlantic, including the Caribbean Sea and the Gulf of Mexico, that has pelagic or bottom longline gear on board and that has been issued, or is required to have, a limited access permit for highly migratory species under § 635.4 of this title, must comply with the handling and release requirements specified in § 635.21 of this title.

* * * * *

CHAPTER VI

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 3. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. *et seq.*; 16 U.S.C. 1801 *et seq.*

■ 4. In § 635.21, paragraph (d)(3)(iv) is removed and paragraphs (a)(3), (d)(1), (d)(3)(i), and (d)(3)(ii) are revised to read as follows:

§ 635.21 Gear operation and deployment restrictions.

(a) * * *

(3) All vessels that have pelagic or bottom longline gear onboard and that have been issued, or are required to have, a limited access swordfish, shark, or tuna longline category permit for use in the Atlantic Ocean including the Caribbean Sea and the Gulf of Mexico must possess inside the wheelhouse the document provided by NMFS entitled ''Careful Release Protocols for Sea Turtle Release with Minimal Injury,'' and must also post inside the wheelhouse the sea turtle handling and release guidelines provided by NMFS.

* * * * *

(d) * * *

(1) If bottom longline gear is onboard a vessel issued a permit under this part, persons aboard that vessel may not fish or deploy any type of fishing gear in the following areas:

(i) The mid-Atlantic shark closed areas from January 1 through July 31 each calendar year, except that in 2007 the mid-Atlantic shark closed area will be closed from January 1 through June 30 and may open in July, contingent upon available quota; and

(ii) The areas designated at § 622.33(a) of this title, year-round.

* * * * *

(3) * * *

(i) *Possession and use of required mitigation gear.* The equipment listed in paragraph (c)(5)(i) of this section must be carried on board and must be used to handle, release, and disentangle hooked or entangled sea turtles, prohibited sharks, or smalltooth sawfish in accordance with requirements specified in paragraph (d)(3)(ii) of this section.

(ii) *Handling and release requirements.* Sea turtle bycatch mitigation gear, as required by paragraph (d)(3)(i)of this section, must be used to disengage any hooked or entangled sea turtles as stated in paragraph (c)(5)(ii) of this section. This mitigation gear should also be employed to disengage any hooked or entangled species of prohibited sharks as listed in Category (D) of Table 1 of Appendix A of this part. If a smalltooth sawfish is caught, the fish should be kept in the water while maintaining water flow over the gills and examined for research tags and the line should be cut as close to the hook as possible. Dehooking devices should not be used to release smalltooth sawfish.

* * * * *

■ 5. In § 635.71, paragraph (a)(33) is revised as follows:

§ 635.71 Prohibitions.

* * * * *

(a) * * *

(33) Deploy or fish with any fishing gear from a vessel with pelagic or bottom longline gear on board without carrying the required sea turtle bycatch mitigation gear, as specified at § 635.21(c)(5)(i) for pelagic longline gear and § 635.21(d)(3)(i) for bottom longline gear. This equipment must be utilized in accordance with § 635.21(c)(5)(ii) and (d)(3)(ii) for pelagic and bottom longline gear, respectively.

* * * * *

[FR Doc. E7–2011 Filed 2–6–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 404

[Docket No. 060824225–6031–02]

RIN 0648–AU82

Northwestern Hawaiian Islands Marine National Monument; Correction

AGENCIES: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC); United States Fish and Wildlife Service (USFWS), Department of the Interior (DOI).

ACTION: Final rule; correcting amendment.

SUMMARY: NOAA and the USFWS published final regulations for the Northwestern Hawaiian Islands Marine National Monument (Monument) on August 29, 2006. The preamble and regulatory text of that notice contained errors pertaining to the electronic mail address for submitting comments on the information collection requirements of that rule, the reference to the dimensions of the outer boundary of the Monument, and the numbering sequence for one paragraph. This final rule corrects those errors. This rule makes no substantive change to the regulations.

DATES: This correction is effective February 7, 2007.

SUPPLEMENTARY INFORMATION: Regulations published by NOAA and the USFWS on August 29, 2006 to codify the prohibitions and management measures set forth in Presidential Proclamation 8031 (71 FR 36443, June 26, 2006) establishing the Monument, contained an error in the instructions for submitting comments on the information collection requirements of the final rule via electronic mail, the reference to the dimensions of the Monument's outer boundary, and the numbering sequence for one paragraph.

The first error appeared in the first sentence of the **ADDRESSES** section of the notice. Here the notice incorrectly refers to a ''proposed rule'' and provides the incorrect e-mail address. That sentence should read ''Submit written comments regarding the burden-hour estimates or other aspects of the information collection requirements contained in this final rule by e-mail to Diana Hynek at *dHynek@doc.gov*.'' The incorrect e-mail address also appeared in the **SUPPLEMENTARY INFORMATION** section of the notice in the first column on page 51135 below the table. The e-mail address should read *dHynek@doc.gov.*

The second error is in the third sentence of the first paragraph of the **SUPPLEMENTARY INFORMATION** section of the notice, where dimensions for the outer boundary of the Monument were given. The dimensions are for the Monument, not the outer boundary. Therefore, this sentence should read ''The Monument is approximately 100 nmi wide and extends approximately 1200 nmi around coral islands, seamounts, banks, and shoals.''

The regulatory text of that rule also contained an error in the numbering sequence for one paragraph. Paragraph 404.11(f)(1)(ii) should have been designated as paragraph 404.11(f)(1)(i)(A). Paragraphs 404.11(f)(1)(ii)(A) and (B) and paragraph 404.11(f)(1)(iii) should have been numbered paragraphs 404.11(f)(1)(i)(B) through (D), respectively. Paragraph 404.11(f)(1)(iv) should have been designated as paragraph 404.11(f)(1)(ii). This final rule makes these corrections. The substance of the regulations remains unchanged.

Classification

Administrative Procedure Act

The Secretaries find good cause to waive notice and comment on this correction, pursuant to 5 U.S.C. 533(b)(B), and the 30-day delay in effective date pursuant to 5 U.S.C. 553(d). Notice and comment are unnecessary because this correction is a minor, technical change in an e-mail address and the numbering of the regulations as well as elimination of erroneous references to the notice as a proposed rule and the dimensions of the Monument's outer boundary. The substance of the regulations remains unchanged. Therefore, this correction is being published as a final regulation and is effective February 7, 2007.

E.O. 12866

This rule has been determined to be not significant for purposes of E.O. 12866.

List of Subjects in 50 CFR Part 404

Administrative practice and procedure, Coastal zone, Fish, Fisheries, Historic preservation, Intergovernmental relations, Marine resources, Monuments and memorials, Natural resources, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

Dated: November 16, 2006.

Conrad C. Lautenbacher Jr.,

Undersecretary of Commerce for Oceans and Atmosphere.

Dated: January 5, 2007.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

■ Accordingly, NOAA and USFWS correct 50 CFR part 404 as follows:

PART 404—NORTHWESTERN HAWAIIAN ISLANDS MARINE NATIONAL MONUMENT

■ 1. The authority citation for 50 CFR part 404 continues to read as follows:

Authority: 16 U.S.C. 431 *et seq.*; 16 U.S.C. 460k–3; 16 U.S.C. 1801 *et seq.*; 16 U.S.C. 742f; 16 U.S.C. 742l; and 16 U.S.C. 668dd–ee; 16 U.S.C. 1361 *et seq.*; 16 U.S.C. 1531 *et seq.*; Pub. L. No. 106–513, § 6(g) (2000).

■ 2. In § 404.11, paragraph (f)(1) is revised to read as follows:

§ 404.11 Permitting procedures and criteria.

* * * * *

(f) *Additional findings, criteria, and requirements for special ocean use permits.*

(1) In addition to the findings listed in paragraph (d) of this section, the following requirements apply to the issuance of a permit for a special ocean use under paragraph (c)(5) of this section:

(i) Any permit for a special ocean use issued under this section:

(A) Shall authorize the conduct of an activity only if that activity is compatible with the purposes for which the Monument is designated and with protection of Monument resources;

(B) Shall not authorize the conduct of any activity for a period of more than 5 years unless renewed;

(C) Shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure Monument resources; and

(D) Shall require the permittee to purchase and maintain comprehensive general liability insurance, or post an equivalent bond, against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims;

(ii) Each person issued a permit for a special ocean use under this section shall submit an annual report to the Secretaries not later than December 31 of each year which describes activities conducted under that permit and revenues derived from such activities during the year.

* * * * *

[FR Doc. 07–545 Filed 2–6–07; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 061124307–7013–02; I.D. 112106A]

RIN 0648–AT65

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Specifications and Management Measures; Correction

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; correction.

SUMMARY: On January 30, 2007, NMFS published a final rule implementing 2007 specifications and management measures for Atlantic mackerel, squid, and butterfish (MSB) and modifying existing management measures. The preamble to the final rule contains Table 1 announcing the specifications for Atlantic mackerel, squid, and butterfish fisheries for the 2007 fishing year. Table 2 of the preamble to the final rule announces the trimester allocation of the *Loligo* squid quota in 2007. The headings to both tables inadvertently indicated that the specifications and allocation for 2007 were ''proposed'' rather than ''final''. This document corrects those errors.

DATES: Effective March 1, 2007.

FOR FURTHER INFORMATION CONTACT: Carrie Nordeen, Fishery Policy Analyst, 978- 281–9272, fax 978–281–9135.

SUPPLEMENTARY INFORMATION: Regulations implementing the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries (FMP) appear at 50 CFR part 648, subpart B, and regulations governing foreign fishing appear at 50 CFR part 600, subpart F. The final rule published on January 30, 2007 (72 FR 4211) fulfilled NMFS regulatory requirements at §§ 648.21 and 600.516(c) based on the maximum optimum yield (Max OY) of each fishery as established by the regulations, annually specify the amounts of the initial optimum yield (IOY), allowable biological catch (ABC), domestic annual harvest (DAH), and domestic annual processing (DAP), as well as, where applicable, the amounts for total allowable level of foreign fishing (TALFF) and joint venture processing (JVP) for the affected species managed under the FMP. The final specifications for 2007 were identified in Table 1 of the preamble to the final rule. However, the heading to Table 1 inadvertently indicated that the specifications were ''proposed'' rather than ''final''. This document corrects the heading for Table 1 appearing on page 4212 (FR Doc. E7–1445) of the preamble contained in the January 30, 2007 **Federal Register** document. The remainder of Table 1 is republished in its entirety for the public's convenience.

The final rule published January 30, 2007 (72 FR 4213) also identified the distribution of the trimester allocation of *Loligo* squid quota for the 2007 fishing year. However, the heading to Table 2 inadvertently indicated that the trimester allocation was ''proposed'' rather than ''final''. This document corrects the heading for Table 2 appearing on page 4213 (FR Doc. E7–1445) of the preamble contained in the January 30, 2007 **Federal Register** final rule document. The remainder of Table 2 is republished in its entirety for the public's convenience.

Correction

Accordingly, the final rule published on January 30, 2007, at 72 FR 4211 (FR Doc. E7–1445), to be effective March 1, 2007, is corrected as follows:

1. On page 4212, Table 1, title heading is corrected and the table text is republished to read as follows:

TABLE 1. FINAL SPECIFICATIONS, IN METRIC TONS (MT), FOR ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FOR 2007 FISHING YEAR.

Specifications	*Loligo*	*Illex*	Mackerel	Butterfish
Max OY	26,000	24,000	N/A	12,175
ABC	17,000	24,000	186,000	4,545
IOY	16,490[1]	24,000	115,000[2]	1,681
DAH	16,490	24,000	115,000[3]	1,681
DAP	16,490	24,000	100,000	1,681
JVP	0	0	0	0
TALFF	0	0	0	0

[1] Excludes 510 mt for Research Quota (RQ).
[2] IOY may be increased during the year, but the total ABC will not exceed 186,000 mt.
[3] Includes 15,000 mt of Atlantic mackerel recreational allocation.

2. On page 4213, Table 2, title heading is corrected and the table text is republished to read as follows:

TABLE 2. TRIMESTER ALLOCATION OF *Loligo* SQUID QUOTA IN 2007

Trimester	Percent	Metric Tons[1]	RQ (mt)
I (Jan–Apr)	43.0	7,090.7	NA
II (May–Aug)	17.0	2,803.3	NA
III (Sep–Dec)	40.0	6,596.0	NA
Total	100	16,490	510

[1] Trimester allocations after 510 mt RQ deduction.

Dated: February 01, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory programs, National Marine Fisheries Service.

[FR Doc. E7–2042 Filed 2–6–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216045–6045–01; I.D. 020107F]

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; closures and openings.

SUMMARY: NMFS is prohibiting directed fishing for Atka mackerel with gears other than jig gear in the Eastern Aleutian District and the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2007 total allowable catch (TAC) of Atka mackerel in these areas. NMFS is also announcing the opening and closing dates of the first and second directed fisheries within the harvest limit area (HLA) in Statistical Areas 542 and 543. These actions are necessary to conduct directed fishing for Atka mackerel in the HLA in areas 542 and 543.

DATES: The effective dates are provided in Table 1 under the **SUPPLEMENTARY INFORMATION** section of this temporary action.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2007 TAC of Atka mackerel specified for other gear in the Eastern Aleutian District and the Bering Sea subarea was established as 3,434 metric tons (mt) by the 2006 and 2007 final harvest specifications for groundfish in the BSAI (71 FR 10894, March 3, 2006). See § 679.20(a)(8)(ii) and (c)(3)(iii).

In accordance with § 679.20(d)(1)(i) and (d)(1)(ii)(B), the Acting Administrator, Alaska Region, NMFS (Regional Administrator), has determined that 800 mt of the 2007 Atka mackerel TAC for other gear in the Eastern Aleutian District and the Bering Sea subarea will be necessary as incidental catch to support other anticipated groundfish fisheries. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,634 mt. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Atka mackerel by vessels using other gear in the Eastern Aleutian District and the Bering Sea subarea.

In accordance with § 679.20(a)(8)(iii)(C), the Regional Administrator is opening the first directed fisheries for Atka mackerel within the HLA in areas 542 and 543, 48 hours after the closure of the Eastern Aleutian District and the Bering Sea subarea Atka mackerel directed fishery. The Regional Administrator has established the opening date for the second HLA directed fisheries as 48 hours after the last closure of the first HLA fisheries in either area 542 or 543. Consequently, NMFS is opening and

closing directed fishing for Atka mackerel in the HLA of areas 542 and 543 in accordance with the periods listed under Table 1 of this notice.

TABLE 1. EFFECTIVE DATES AND TIMES

Action	Area	Effective Date[1]	
		From	To
Closing Atka Mackerel with gears other than jig gear	Eastern Aleutian District and the Bering Sea subarea	1200 hrs, February 3, 2007	1200 hrs, September 1, 2007
Opening the first directed fishery in the HLA	542	1200 hrs, February 5, 2007	1200 hrs, February 19, 2007
	543	1200 hrs, February 5, 2007	1200 hrs, February 6, 2007
Opening the second directed fishery in the HLA	542	1200 hrs, February 21, 2007	1200 hrs, March 7, 2007
	543	1200 hrs, February 21, 2007	1200 hrs, February 22, 2007

[1]Alaska local time

In accordance with § 679.20(a)(8)(iii)(A) and (B), vessels using trawl gear for directed fishing for Atka mackerel have previously registered with NMFS to fish in the HLA fisheries in areas 542 and/or 543. NMFS has randomly assigned each vessel to the directed fishery or fisheries for which they have registered. NMFS has notified each vessel owner as to which fishery each vessel has been assigned by NMFS (72 FR 2201, January 18, 2006).

In accordance with the 2006 and 2007 final harvest specifications for groundfish in the BSAI (71 FR 10894, March 3, 2006), inseason adjustment (72 FR 1463, January 12, 2007), and § 679.20(a)(8)(ii)(C)(*1*), the HLA limits of the A season allowance of the 2007 TACs in areas 542 and 543 are 8,214 mt and 2,664 mt, respectively. Based on those limits and the proportion of the number of vessels in each fishery compared to the total number of vessels participating in the HLA directed fishery for area 542 or 543, the harvest limit for each HLA directed fishery in areas 542 and 543 are as follows: for the first directed fishery in area 542, 4,107 mt; for the first directed fishery in area 543, 1,332 mt; for the second directed fishery in area 542, 4,107 mt; and for the second directed fishery in area 543, 1,332 mt. In accordance with § 679.20(a)(8)(iii)(E), the Regional Administrator has establish the closure dates of the Atka mackerel directed fisheries in the HLA for areas 542 and 543 based on the amount of the harvest limit and the estimated fishing capacity of the vessels assigned to the respective fisheries. Consequently, NMFS is prohibiting directed fishing for Atka mackerel in the HLA of areas 542 and 543 in accordance with the dates and times listed in Table 1 of this notice.

After the effective dates of these closures, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA) finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of the Atka mackerel fishery in the Eastern Aleutian District and the Bering Sea subarea and the opening and closing of the fisheries for the HLA limits established for area 542 and area 543 pursuant to the 2007 Atka mackerel TAC. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 1, 2007. The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 1, 2007.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 07–537 Filed 2–2–07; 2:22 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 25
Wednesday, February 7, 2007

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. AO–322–A7; AMS–FV–06–0213; FV07–930–2]

Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin; Hearing on Proposed Amendment of Marketing Agreement and Order No. 930

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of hearing on proposed rulemaking.

SUMMARY: Notice is hereby given of a public hearing to receive evidence on proposed amendments to Marketing Agreement and Order No. 930 (order), which regulate the handling of tart cherries grown in Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. Seven amendments are proposed by the Cherry Industry Administrative Board (Board), which is responsible for local administration of the order. These proposed amendments would: Authorize changing the primary reserve capacity associated with the volume control provisions of the order; authorize establishment of a minimum inventory level at which all remaining product held in reserves would be released to handlers for use as free tonnage; establish an age limitation on product placed into reserves; revise the voting requirements necessary to approve a Board action; revise the nomination and election process for handler members on the Board; revise Board membership affiliation requirements; and update order language to more accurately reflect grower and handler participation in the nomination and election process in Districts with only one Board representative. In addition, the Agricultural Marketing Service (AMS) proposes to make any such changes as may be necessary to the order or administrative rules and regulations to conform to any amendment that may result from the hearing. The proposals are intended to provide additional flexibility in administering the volume control provisions of the order, and to update Board nomination, election, and membership requirements. These proposed amendments are intended to improve the operation and administration of the order.

DATES: The hearing dates are:

1. February 21, 2007, 9 a.m. to 5 p.m.; and continuing on February 22, 2007, at 9 a.m., if necessary, in Grand Rapids, Michigan.

2. March 1, 2007, 9 a.m. to 5 p.m.; and continuing on March 2, 2007, at 9 a.m., if necessary, in Provo, Utah.

ADDRESSES: The hearing locations are:

1. Grand Rapids—U.S. Bankruptcy Court, One Division Ave., N, 3rd Floor Courtroom C, Grand Rapids, MI 49503.

2. Provo—Utah County Administration Building, 100 E. Center Street, Room L900, Provo, Utah 84606.

FOR FURTHER INFORMATION CONTACT: Martin Engeler, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, Fresno, California 93721; telephone: (559) 487–5110, Fax: (559) 487–5906; or Kathleen M. Finn, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Martin.Engeler@usda.gov* or *Kathy.Finn@usda.gov.*

Small businesses may request information on this proceeding by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0237, Washington, DC 20250–0237; telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This administrative action is instituted pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' This action is governed by the provisions of sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) seeks to ensure that within the statutory authority of a program, the regulatory and informational requirements are tailored to the size and nature of small businesses. Interested persons are invited to present evidence at the hearing on the possible regulatory and informational impacts of the proposals on small businesses.

The amendments proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have retroactive effect. If adopted, the proposed amendments would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with the proposals.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

The hearing is called pursuant to the provisions of the Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR part 900).

The proposed amendments were recommended by the Board and initially submitted to USDA on December 16, 2005. Additional information was submitted in June 2006 at the request of USDA and a determination was subsequently made to schedule this matter for hearing.

The proposed amendments to the order recommended by the Board are summarized as follows:

1. Amend § 930.50 of the order to authorize changing the primary reserve capacity associated with the volume control provisions of the order.

2. Amend § 930.54 of the order to authorize establishment of a minimum inventory level at which all remaining product held in reserves would be released to handlers for use as free tonnage.

3. Amend § 930.55 to establish an age limitation on product placed into reserves.

4. Amend § 930.32 to revise the voting requirements necessary to approve a Board action.

5. Amend § 930.23 to revise the nomination and election process for handler members on the Board.

6. Amend § 930.20 to revise Board membership affiliation requirements.

7. Amend § 930.23 to update order language to more accurately reflect grower and handler participation in the nomination and election process in Districts with only one Board representative.

The Board works with USDA in administering the order. These proposals submitted by the Board have not received the approval of USDA. The Board believes that its proposed changes would provide additional flexibility in administering the volume control provisions of the order, and would update the nomination, election, and membership requirements for the Board. The proposed amendments are intended to improve the operation and administration of the order.

In addition to the proposed amendments to the order, AMS proposes to make any such changes as may be necessary to the order or administrative rules and regulations to conform to any amendment that may result from the hearing.

The public hearing is held for the purpose of: (i) Receiving evidence about the economic and marketing conditions which relate to the proposed amendments of the order; (ii) determining whether there is a need for the proposed amendments to the order; and (iii) determining whether the proposed amendments or appropriate modifications thereof will tend to effectuate the declared policy of the Act.

Testimony is invited at the hearing on all the proposals and recommendations contained in this notice, as well as any appropriate modifications or alternatives.

All persons wishing to submit written material as evidence at the hearing should be prepared to submit four copies of such material at the hearing and should have prepared testimony available for presentation at the hearing.

From the time the notice of hearing is issued and until the issuance of a final decision in this proceeding, USDA employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an *ex parte* basis with any person having an interest in the proceeding. The prohibition applies to employees in the following organizational units: Office of the Secretary of Agriculture; Office of the Administrator, AMS; Office of the General Counsel, except any designated employee of the General Counsel assigned to represent the Board in this proceeding; and the Fruit and Vegetable Programs, AMS.

Procedural matters are not subject to the above prohibition and may be discussed at any time.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Testimony is invited on the following proposals or appropriate alternatives or modifications to such proposals.

Proposals submitted by the Cherry Industry Administrative Board:

Proposal Number 1

3. Revise paragraph (i) of § 930.50 to read as follows:

§ 930.50 Marketing policy.

* * * * *

(i) *Restricted Percentages.* Restricted percentage requirements established under paragraphs (b), (c), or (d) of this section may be fulfilled by handlers by either establishing an inventory reserve in accordance with § 930.55 or § 930.57 or by diversion of product in accordance with § 930.59. In years where required, the Board shall establish a maximum percentage of the restricted quantity which may be established as a primary inventory reserve such that the total primary inventory reserve does not exceed 50 million pounds; *Provided,* That such 50 million pound quantity may be changed upon recommendation of the Board and approval of the Secretary. Any such change shall be recommended by the Board on or before September 30 of any crop year to become effective for the following crop year, and the quantity may be changed no more than one time per crop year. Handlers will be permitted to divert (at plant or with grower diversion certificates) as much of the restricted percentage requirement as they deem appropriate, but may not establish a primary inventory reserve in excess of the percentage established by the Board for restricted cherries. In the event handlers wish to establish inventory reserve in excess of this amount, they may do so, in which case it may be classified as a secondary inventory reserve and will be regulated accordingly.

* * * * *

Proposal Number 2

4. Add a new paragraph (d) to § 930.54 to read as follows:

§ 930.54 Prohibition on the use or disposition of inventory reserve cherries.

* * * * *

(d) Should the volume of cherries held in the primary inventory reserves and, subsequently, the secondary inventory reserves reach a minimum amount, which level will be established by the Secretary upon recommendation from the Board, the products held in the respective reserves shall be released from the reserves and made available to the handlers as free tonnage.

Proposal Number 3

5. Revise paragraph (b) of § 930.55 to read as follows:

§ 930.55 Primary inventory reserves.

* * * * *

(b) The form of the cherries, frozen, canned in any form, dried, or concentrated juice, placed in the primary inventory reserve is at the option of the handler. The product(s) placed by the handler in the primary inventory reserve must have been produced in either the current or the preceding two crop years. Except as may be limited by § 930.50(i) or as may be permitted pursuant to §§ 930.59 and 930.62, such inventory reserve portion shall be equal to the sum of the products obtained by multiplying the weight or volume of the cherries in each lot of cherries acquired during the fiscal period by the then effective restricted percentage fixed by the Secretary; *Provided,* That in converting cherries in each lot to the form chosen by the handler, the inventory reserve obligations shall be adjusted in accordance with uniform rules adopted by the Board in terms of raw fruit equivalent.

* * * * *

Proposal Number 4

6. Revise paragraph (a) of § 930.32 to read as follows:

§ 930.32 Procedure.

(a) Two-thirds (2/3) of the members of the Board, including alternates acting for absent members, shall constitute a quorum. For any action of the Board to pass, at least two-thirds (2/3) of those present at the meeting must vote in support of such action.

* * * * *

Proposal Number 5

7. Revise paragraph (b)(2), redesignate paragraph (c)(3) as paragraph (c)(3)(i) and add a new paragraph (c)(3)(ii) to § 930.23 to read as follows:

§ 930.23 Nomination and election.

* * * * *

(b) * * *

(2) In order for the name of a handler nominee to appear on an election ballot, the nominee's name must be submitted with a petition form, to be supplied by the Secretary or the Board, which contains the signature of one or more handler(s), other than the nominee, from the nominee's district who is or are eligible to vote in the election and that handle(s) a combined total of no less than five percent (5%) of the average production, as that term is used in § 930.20, handled in the district. The requirement that the petition form be signed by a handler other than the nominee shall not apply in any district where fewer than two handlers are eligible to vote.

* * * * *

(c) * * *

(3)(i) * * *

(ii) To be seated as a handler representative in any district, the successful candidate must receive the support of handler(s) that handled a combined total of no less than five percent (5%), of the average production, as that term is used in § 930.20, handled in the district.

* * * * *

Proposal Number 6

8. Revise paragraph (g) of § 930.20 to read as follows:

§ 930.20 Establishment and membership.

* * * * *

(g) In order to achieve a fair and balanced representation on the Board, and to prevent any one sales constituency from gaining control of the Board, not more than one Board member may be from, or affiliated with, a single sales constituency in those districts having more than one seat on the Board; *Provided,* That this prohibition shall not apply in a district where such a conflict cannot be avoided. There is, however, no prohibition on the number of Board members from differing districts that may be elected from a single sales constituency which may have operations in more than one district. However, as provided in § 930.23, a handler or grower may only nominate Board members and vote in one district.

* * * * *

Proposal Number 7

9. Revise paragraphs (b)(5) and (c)(4) of § 930.23 to read as follows:

§ 930.23 Nomination and election.

* * * * *

(b) * * *

(5) In districts entitled to only one Board member, both growers and handlers may be nominated for the district's Board seat. Grower and handler nominations must follow the petition procedures outlined in paragraphs (b)(1) and (b)(2) of this section.

* * * * *

(c) * * *

(4) In districts entitled to only one Board member, growers and handlers may vote for either the grower or handler nominee(s) for the single seat allocated to those districts.

* * * * *

Proposal submitted by USDA:

Proposal Number 8

Make such changes as may be necessary to the order to conform with any amendment thereto that may result from the hearing.

Dated: February 5, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 07–549 Filed 2–5–07; 10:43 am]

BILLING CODE 3410–02–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration, National Marine Fisheries Service

50 CFR Part 223

[Docket No. [070123015–7015–01; I.D. 052104F]

RIN 0648–AV18

Endangered and Threatened Species: Proposed Protective Regulations

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments; notice of availability of a draft environmental assessment.

SUMMARY: We, NMFS, are proposing to issue protective regulations under section 4(d) of the Endangered Species Act (ESA) for a distinct population segment (DPS) of steelhead in Puget Sound, Washington, presently proposed for listing as a threatened species. The 4(d) regulations prohibit the take of listed species, unless a ''limit'' applies for specified categories of activities determined to be adequately protective of listed salmonids. In addition, we are announcing the availability of an environmental assessment (EA) that analyzes the impacts of promulgating these 4(d) regulations. We are furnishing this notification to allow other agencies and the public an opportunity to review and comment on the draft EA. All comments received will become part of the public record and will be available for review.

DATES: Comments on this proposed rule and the draft EA must be received by no later than 5 p.m. P.S.T. on March 9, 2007. (See **ADDRESSES**).

ADDRESSES: Comments may be submitted by mail to Chief, Protected Resources Division, NMFS, 1201 NE Lloyd Blvd - Suite 1100, Portland, OR 97232–1274. Comments may be submitted by e-mail to *salmon.nwr@noaa.gov*. Include in the subject line of the e-mail the following document identifier: [070123015–7015–01]. Comments may also be submitted via facsimile (fax) to 503–230–5441, or via the Internet through the Federal e-Rulemaking portal at *http://www.regulations.gov*. The draft EA and other information regarding Pacific salmon and steelhead can be found at *http://www.nwr.noaa.gov/ESA-Salmon-Regulations-Permits/4d-Rules/*.

FOR FURTHER INFORMATION CONTACT: For further information regarding this proposed rule contact Steve Stone, NMFS, Northwest Region, (503) 231–2317; or Marta Nammack, NMFS, Office of Protected Resources, (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

Regulatory Authority

NMFS is responsible for determining whether species, subspecies, or distinct population segments (DPSs) of most marine and anadromous species warrant listing as threatened or endangered under the ESA (16 U.S.C. 1531 *et seq.*). For species listed as endangered, section 9(a) of the ESA prohibits activities that result in take. Under the ESA the term ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct. Activities that may harm

include significant habitat modification or degradation that actually kills or injures listed species by significantly impairing essential behavioral patterns including breeding, spawning, rearing, migrating, feeding or sheltering (64 FR 60727, November 8, 1999). For species listed as threatened, section 4(d) of the ESA requires the Secretary of Commerce to issue such regulations as are deemed necessary and advisable to provide for the conservation of the species. Such 4(d) protective regulations may prohibit, with respect to threatened species, some or all of the acts that section 9(a) of the ESA prohibits with respect to endangered species. Both the section 9(a) prohibitions and section 4(d) regulations apply to all individuals, organizations, and agencies subject to U.S. jurisdiction.

In the 1990s, we adopted ESA section 4(d) regulations for Pacific salmon and steelhead that applied to threatened species all of the ESA section 9(a)(1) prohibitions for endangered species. In 1997 we began to use our authority under section 4(d) to tailor specific protective regulations to limit the application of those prohibitions for a range of activities determined to be necessary and advisable to provide for the conservation of threatened Pacific salmon and steelhead. The specific regulations (commonly referred to as ''limits'') addressed an array of activities, including salmonid research, habitat restoration, and harvest and hatchery management. We created a mechanism whereby parties could obtain an approval determining that their proposed activity qualified under one of the limits and, therefore, any take in the course of the activity is not prohibited under the ESA. In 2005 we revised and simplified the 4(d) regulations for threatened Pacific salmon and steelhead DPSs by making all DPSs subject to the same limits (70 FR 37160; June 28, 2005).

Additionally, the regulations were modified so that the section 9 prohibitions do not apply to adipose-fin-clipped hatchery fish. We determined that these revisions would minimize the regulatory burden of managing species listed as threatened under the ESA, while retaining the necessary and advisable protections to provide for the conservation of threatened Pacific salmon and O. mykiss DPSs. Currently, there are 14 limits applicable to one or more threatened DPSs of Pacific salmon and steelhead, and the resultant regulations are codified in our regulations at 50 CFR 223.203.

The ESA provides other protections for both endangered and threatened species. In particular, section 7(a)(2) of the ESA requires that each Federal agency shall, in consultation with and with the assistance of NMFS or FWS, as appropriate, ensure that any action authorized, funded, or carried out by such agency is not likely to jeopardize the continued existence of an endangered or threatened species or result in the destruction or adverse modification of areas designated as critical habitat. Also, under section 10 of the ESA, we may issue permits authorizing the take of a listed species for scientific purposes, to enhance its propagation or survival, or to conduct otherwise lawful activities identified in a conservation plan that may result in the incidental take of a listed species.

Puget Sound Steelhead

In 1996 we identified Puget Sound steelhead as a DPS of West Coast steelhead and determined that listing was not warranted under the ESA (61 FR 41541; August 9, 1996). Subsequently we received a petition to re-evaluate the status of this DPS and on March 29, 2006, published a proposed rule to list it as threatened under the ESA (71 FR 15666). The new information reviewed and relevant findings are described in that **Federal Register** notice as well as an updated species status review (NMFS, 2005). The DPS is proposed to include all naturally spawned anadromous winter-run and summer-run O. mykiss (steelhead) populations, in streams in the river basins of the Strait of Juan de Fuca, Puget Sound, and Hood Canal, Washington, bounded to the west by the Elwha River (inclusive) and to the north by the Nooksack River and Dakota Creek (inclusive), as well as the Green River natural and Hamma Hamma winter-run steelhead hatchery stocks.

We are presently reviewing comments received on the listing proposal in preparation of a final listing determination due within 1 year of the proposal. Section 4(b)(6)(B)(I) of the ESA authorizes extending the deadline for a final listing determination for not more than 6 months for the purpose of soliciting additional data. Our ESA regulations at 50 CFR 424.17(a)(1)(iv) condition such an extension on finding ''substantial disagreement among scientists knowledgeable about the species concerned regarding the sufficiency or accuracy of the available data relevant to the determination.''

Proposed 4(d) Protective Regulations for Puget Sound Steelhead

If the Puget Sound steelhead DPS is listed as a threatened species, we would have to issue such ESA section 4(d) regulations deemed necessary and advisable for its conservation. We would propose to amend existing 4(d) regulations to provide the necessary flexibility to ensure that programs are managed consistently with the conservation needs of Puget Sound steelhead. Doing so would be warranted because, as described in our proposal to list this DPS, the inadequacy of existing regulatory mechanisms is a factor limiting the viability of Puget Sound steelhead into the foreseeable future.

In keeping with recent updates to our ESA section 4(d) regulations for Pacific salmon and steelhead, we propose to apply the ESA section 9(a)(1) prohibitions (subject to the ''limits'' discussed below) to unmarked steelhead with an intact adipose fin that are part of the Puget Sound steelhead DPS. Juvenile hatchery steelhead are typically marked by clipping off their adipose fin just prior to release into the natural environment as a means of distinguishing them from fish of natural origin. Most unmarked steelhead in this DPS are of natural origin. However some hatchery steelhead are released unmarked. Unmarked hatchery fish that are surplus to the recovery needs of this DPS and that are otherwise distinguishable from naturally spawned fish in the DPS (e.g., by run timing or location) may be made not subject to the 4(d) prohibitions by limits (b)(4) and (b)(6) of 50 CFR 223.203 for fishery management plans, as well as under 50 CFR 223.209 for tribal resource management plans. This approach provides an effective means to manage the artificial propagation and directed take of threatened Puget Sound steelhead while providing for the species' conservation and recovery.

Placing specific limits on the application of section 9(a)(1) prohibitions for this DPS will allow NMFS to not apply these prohibitions to certain activities, provided the activities meet specific conditions to adequately protect the species. In this rule the agency is proposing to protect Puget Sound steelhead using the same 14 limits currently in place for other threatened Pacific salmon and steelhead. These limits, codified in agency regulations at 50 CFR 223.203, address: activities conducted in accordance with ESA section 10 incidental take authorization (50 CFR 223.203(b)(1)); scientific or artificial propagation activities with pending permit applications at the time of rulemaking (§ 223.203(b)(2)); emergency actions related to injured, stranded, or dead salmonids (§ 223.203(b)(3)); fishery management activities (§ 223.203(b)(4)); hatchery and genetic management

programs (§ 223.203(b)(5)); activities in compliance with joint tribal/state plans developed within *United States* v. *Washington* or *United States* v. *Oregon* (§ 223.203(b)(6)); scientific research activities permitted or conducted by the states (§ 223.203(b)(7)); state, local, and private habitat restoration activities (§ 223.203(b)(8)); properly screened water diversion devices (§ 223.203(b)(9)); routine road maintenance activities (§ 223.203(b)(10)); Portland parks pest management activities (§ 223.203(b)(11)); certain municipal, residential, commercial, and industrial development and redevelopment activities (§ 223.203(b)(12)); forest management activities on state and private lands within the State of Washington (§ 223.203(b)(13)); and activities undertaken consistent with an approved tribal resource management plan (§ 223.204).

Comprehensive descriptions of each ESA section 4(d) limit are contained in previously published **Federal Register** notices (62 FR 38479, July 18, 1997; 65 FR 42422, July 10, 2000; 65 FR 42485, July 10, 2000; 67 FR 1116, January 9, 2002) and on the Internet at: *http://www.nwr.noaa.gov/ESA-Salmon-Regulations-Permits/4d-Rules/Index.cfm*. One of these limits (§ 223.203(b)(11) - Portland parks pest management) is very limited in scope and not applicable to this DPS.

Limit § 223.203(b)(2) exempts scientific or artificial propagation activities with pending applications for ESA section 4(d) approval. The limit was most recently amended on February 1, 2006, to temporarily not apply the take prohibitions(71 FR 5178) to such activities, provided that a complete application for 4(d) approval was received within 60 days of the notice's publication. In the interest of conserving Puget Sound steelhead, we propose to once again revise § 223.203(b)(2) to provide a ''grace period'' that allows research and enhancement activities to continue uninterrupted while the necessary 4(d) assessments are completed.

These limits are not prescriptive regulations, and no one is required to seek our approval for the management of their activities under an ESA section 4(d) limit. The fact that an activity is not conducted within the specified criteria for a limit does not automatically mean that the activity violates the ESA. Many activities do not affect Puget Sound steelhead and, therefore, need not be conducted according to a given limit to avoid ESA section 9 take violations. Nevertheless, there is greater certainty that an activity or program is not at risk of violating the section 9 take prohibitions if it is conducted in accordance with these limits. In order to reduce its liability, a jurisdiction, entity, or individual may informally comply with a limit by choosing to modify its programs to be consistent with the evaluation considerations described in the individual limits. Or they may seek to qualify their plans or ordinances for inclusion under a limit by obtaining authorization from NMFS under a specific section 4(d) limit.

If Puget Sound steelhead were listed, we would encourage everyone to evaluate their practices and activities to determine the likelihood of taking Puget Sound steelhead. We can assure ESA compliance by ensuring compliance with existing section 4(d) regulations, as well as through section 7 consultation with Federal agencies or section 10 research, enhancement, and incidental take permits. If take is likely to occur, then the jurisdiction, entity, or individual should modify its practices to avoid the take of listed steelhead, or seek to avoid potential ESA liability through section 7, section 10, or section 4(d) procedures. We will continue to work collaboratively with all affected governmental entities to recognize existing management programs that conserve listed Puget Sound salmonids and to strengthen others. Any final rule resulting from this proposal may be amended (through proposed rulemaking and public comment) to add new limits on the take prohibitions, or to amend or delete adopted limits as circumstances warrant.

Public Comments Solicited

We invite comments and suggestions from all interested parties regarding the proposed approach for managing protective regulations for Puget Sound steelhead under section 4(d) of the ESA (see **ADDRESSES**). We request that data, information, and comments be accompanied by: supporting documentation such as maps, logbooks, bibliographic references, personal notes, and/or reprints of pertinent publications; and the name of the person submitting the data, the address, and any association, institution, or business that the person represents.

Peer Review

In December 2004 the Office of Management and Budget (OMB) issued a Final Information Quality Bulletin for Peer Review (Peer Review Bulletin) establishing minimum peer review standards, a transparent process for public disclosure, and opportunities for public input. The Peer Review Bulletin, implemented under the Information Quality Act (Public Law 106 554), is intended to provide public oversight on the quality of agency information, analyses, and regulatory activities. The text of the Peer Review Bulletin was published in the **Federal Register** on January 14, 2005 (70 FR 2664). The Peer Review Bulletin requires Federal agencies to subject ''influential'' scientific information to peer review prior to public dissemination. Influential scientific information is defined as ''information the agency reasonably can determine will have or does have a clear and substantial impact on important public policies or private sector decisions,'' and the Peer Review Bulletin provides agencies broad discretion in determining the appropriate process and level of peer review. The Peer Review Bulletin establishes stricter standards for the peer review of ''highly influential'' scientific assessments, defined as information whose ''dissemination could have a potential impact of more than $500 million in any one year on either the public or private sector or that the dissemination is novel,controversial, or precedent-setting, or has significant interagency interest.''

The agency's status review for Puget Sound Steelhead (NMFS, 2005) is the key science document underlying the proposal to list Puget Sound steelhead as a threatened species. As described in our proposed rule, the status review was considered to be influential scientific information and was subjected to pre-dissemination peer review (60 FR 15666; March 29, 2006). However, we do not consider the scientific information underlying the proposed protective regulations to constitute influential scientific information as defined in the Peer Review Bulletin. The information is not novel; similar information for other listed salmonids whose range overlaps with that of Puget Sound steelhead has been used in support of protective regulations that have been in existence for more than 6 years. Therefore the agency expects the information to be non-controversial and have minimal impacts on important public policies or private sector decisions.

References

A complete list of the references used in this proposed rule is available upon request (see **ADDRESSES**) or via the internet at *http://www.nwr.noaa.gov/ESA-Salmon-Regulations-Permits/4d-Rules/Index.cfm*.

Required Determinations

National Environmental Policy Act (NEPA)

While the ESA requirement to adopt protective regulations for threatened species is mandatory, NMFS has discretion in adopting such regulations as it deems necessary and advisable to provide for their conservation. Accordingly, the promulgation of ESA section 4(d) protective regulations is subject to the requirements of the NEPA, and we have prepared a draft Environmental Assessment (EA) analyzing the proposed amendments to our 4(d) regulations. We are seeking comment on the draft EA, which is available upon request (see **DATES** and **ADDRESSES**, above).

Regulatory Flexibility Act

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the proposed rule issued under authority of ESA section 4, if adopted, would not have a significant economic impact on a substantial number of small entities. As a result, no regulatory flexibility analysis has been prepared. The factual basis for this certification follows:

Under section 4(d) of the ESA, NMFS is required to adopt such regulations as it deems necessary and advisable for the conservation of species listed as threatened, including prohibiting ''take'' of the threatened species.

Steelhead are considered a gamefish in Washington state, and in Puget Sound are primarily harvested in recreational fisheries. The entities that service steelhead fisheries range in size from multi-national corporations and chain stores to local family businesses. Except for the multi-national corporations and chain stores, most of these entities are small businesses that include bait and tackle suppliers, guides, and lodging and related service providers. These entities do not support steelhead fisheries exclusively, but instead provide goods and services related to a variety of other fisheries (e.g., for salmon and trout) as well. The economic output associated with sport fisheries for Puget Sound steelhead is estimated to be approximately $29 million per year, most of which ($19.5 million) is associated with the winter steelhead fishery (Washington Department of Fish and Wildlife, 2006).

NMFS has previously adopted ESA 4(d) rules prohibiting take, except in certain circumstances, of all Pacific salmon and steelhead (salmonid) species listed as threatened under the ESA. NMFS now proposes to apply the Section 9(a)(1) take prohibitions (subject to the ''limits'' discussed above and applicable to other threatened Pacific salmon and steelhead) to unmarked steelhead with an intact adipose fin that are part of the Puget Sound steelhead DPS. Because these prohibitions and associated limits address other threatened Pacific salmonids whose range overlaps that of Puget Sound steelhead, the proposed rule, if adopted, would not add a significant impact to the existing regulatory scheme. In addition, because the take of hatchery fish will not be prohibited, fisheries will be largely unaffected. Landowners will not be affected because the range of the Puget Sounds steelhead proposed for listing overlaps that of already-listed species whose take is already prohibited. Thus, this proposed rule, if adopted, will not have significant impacts on small entities. If you believe that this proposed rule will impact your economic activity, please comment on whether there is a preferable alternative that would meet the statutory requirements of ESA section 4(d) (see **DATES** and **ADDRESSES**). Please also describe the impact that alternative would have on your economic activity and why the alternative is preferable.

Paperwork Reduction Act (PRA)

This proposed rule does not contain a collection-of-information requirement for purposes of the PRA of 1980.

Executive Order (E.O.) 12866 - Regulatory Planning and Review

The proposed ESA section 4(d) regulations addressed in this rule have been determined to be not significant for the purposes of E.O. 12866. We have prepared a Regulatory Impact Review which was provided to the OMB.

Section I(12) of E.O. 12866 also requires each agency to write regulations that are easy to understand. We invite your comments (see **ADDRESSES**) on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? (6) What else could NMFS do to make the rule easier to understand?

E.O. 12988 – Civil Justice Reform

We have determined that this proposed rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of E.O. 12988. We are proposing protective regulations pursuant to provisions in the ESA using an existing approach that improves the clarity of the regulations and minimizes the regulatory burden of managing ESA listings while retaining the necessary and advisable protections to provide for the conservation of threatened species.

E.O. 13084 – Consultation and Coordination with Indian Tribal Governments

E.O. 13084 requires that if NMFS issues a regulation that significantly or uniquely affects the communities of Indian tribal governments and imposes substantial direct compliance costs on those communities, NMFS must consult with those governments, or the Federal government must provide the funds necessary to pay the direct compliance costs incurred by the tribal governments. This proposed rule does not impose substantial direct compliance costs on the communities of Indian tribal governments within the range of this DPS. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this proposed rule. Nonetheless, we intend to inform potentially affected tribal governments and to solicit their input on the proposed rule and will continue coordination and discussions with interested tribes as we move toward a final rule.

E.O. 13132 – Federalism

E.O. 13132 requires agencies to take into account any federalism impacts of regulations under development. It includes specific consultation directives for situations where a regulation will preempt state law, or impose substantial direct compliance costs on state and local governments (unless required by statute). Neither of those circumstances is applicable to this proposed rule. In fact, this notice proposes mechanisms by which we, in the form of 4(d) limits to take prohibitions, may defer to state and local governments where they provide necessary protections for Puget Sound steelhead.

E.O. 13211 – Energy Supply, Distribution, or Use

E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. According to E.O. 13211, ''significant energy action'' means any action by an agency that is expected to lead to the

promulgation of a final rule or regulation that is a significant regulatory action under E.O. 12866 and is likely to have a significant adverse effect on the supply, distribution, or use of energy. Although the regulations addressed in this rule have been determined to be significant for the purposes of E.O. 12866, we have determined that the energy effects are unlikely to exceed the energy impact thresholds identified in E.O. 13211. Therefore, this proposed action is not a significant energy action, and no Statement of Energy Effects is required.

List of Subjects in 50 CFR Part 223

Endangered and threatened species, Exports, Imports, Transportation.

Dated: February 1, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 223 is proposed to be amended as follows:

PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

1. The authority citation for part 223 continues to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, § 223.201 202 also issued under 16 U.S.C. 1361 *et seq.*; 16 U.S.C. 5503(d) for § 223.206(d)(9).

2. In § 223.203, paragraphs (a), (b) introductory text, and (b)(2) are revised to read as follows:

§ 223.203 Anadromous fish.

* * * * *

(a) *Prohibitions.* The prohibitions of section 9(a)(1) of the ESA (16 U.S.C. 1538(a)(1)) relating to endangered species apply to fish with an intact adipose fin that are part of the threatened species of salmonids listed in § 223.102(c)(3) through (c)(23).

(b) *Limits on the prohibitions.* The limits to the prohibitions of paragraph (a) of this section relating to threatened species of salmonids listed in § 223.102(c)(3) through (c)(23) are described in the following paragraphs (b)(1) through (b)(13):

* * * * *

(2) The prohibitions of paragraph (a) of this section relating to threatened Puget Sound steelhead listed in § 223.102(c)(23) do not apply to activities specified in an application for ESA 4(d) authorization for scientific purposes or to enhance the conservation or survival of the species, provided that the application has been received by the Assistant Administrator for Fisheries, NOAA (AA), no later than 60 days after the publication of the final rule in the **Federal Register**. The prohibitions of this section apply to these activities upon the AA's rejection of the application as insufficient, upon issuance or denial of authorization, or 6 months after the publication of the final rule in the **Federal Register**, whichever occurs earliest.

* * * * *

[FR Doc. E7–2010 Filed 2–6–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 070119012–7012–01; I.D. 010307B]

RIN 0648–AU78

Pacific Albacore Tuna Fisheries; Vessel List to Establish Eligibility to Fish for Albacore Tuna in Canadian Waters Under the U.S.–Canada Albacore Tuna Treaty

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to develop a new vessel list at the beginning of each calendar year of U.S. vessels eligible to fish for albacore tuna in Canadian waters. The vessel list would revert to zero vessels on December 31 of each year, unless NMFS receives a notice for a vessel to be added to the list for the upcoming year, with the requisite information. This proposed regulation would clarify that the vessel list will remain valid for a single calendar year. Updating the list every year is intended to facilitate the United States' obligation to annually provide Canada a current list of U. S. vessels that are likely to fish albacore off the coast of Canada.

DATES: Comments must be received by 5 p.m. Pacific Standard Time March 9, 2007.

ADDRESSES: You may submit comments on this proposed rule, identified by [I.D. 010307B] by any of the following methods:

- E-mail: *albacore.fish@noaa.gov*. Include the I.D. number in the subject line of the message.
- Federal e-Rulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213.
- Phone: (562)980–4024.
- Fax: (562) 980–4047.

FOR FURTHER INFORMATION CONTACT: Chris Fanning, Southwest Region, NMFS, (562) 980–4198 or (562) 980–4030.

SUPPLEMENTARY INFORMATION: On August 18, 2006, NMFS published a notice (71 FR 47779) revising the methodology to create a vessel list for 2006 for vessels eligible to fish for albacore tuna in Canadian waters. The 1981 Treaty Between the Government of the United States of America and the Government of Canada on Pacific Coast Albacore Tuna Vessels and Port Privileges (Treaty), as amended in 2002, establishes a number of obligations for both countries to control reciprocal fishing in waters of one country by vessels of the other country. One obligation is that each country is required to annually provide to the other country a list of its fishing vessels that are expected to fish for Pacific albacore tuna off the coast of the other country during the upcoming fishing season, generally June through October each year.

As described in the 2004 final rule implementing amendments to the Treaty (69 FR 31531, June 4, 2004), and codified at 50 CFR 300.172, the list must include vessel and owner name, address, and phone number; USCG documentation number (or state registration if not documented); vessel operator (if different from the owner) and his or her address with phone number. Each U.S. vessel must be on the list for at least 7 days prior to engaging in fishing under the Treaty. This is intended to ensure that both countries have equal information as to eligible vessels. U.S. and Canadian enforcement officers need up-to-date lists of eligible vessels to adequately enforce the Treaty. Vessel owners who wish their vessels remain on, or be added to, the vessel list must contact NMFS at the address specified at 50 CFR 300.171 (definition of ''Regional Administrator''), which is the address that appears in the **ADDRESSES** section above and provide the required information. NMFS will notify fishermen by a confirmation letter or email of the date the request to be on the list was received.

Before the 2006 fishing season June through October, NMFS did not require owners of albacore fishing vessels that wanted their vessels to be on the list of U. S. vessels eligible to fish for albacore tuna in Canadian waters under the

Treaty to contact NMFS. Instead, NMFS relied on a lengthy list created from information provided by industry that was not readily verifiable nor did it indicate whether each vessel owner actually wished to fish for albacore tuna in Canada for any given year. The result was that NMFS was not able to provide the Canadian Government an updated vessel list of vessels owners who intended to fish for albacore tuna in Canada for a particular fishing season. With this proposed rule, NMFS would amend 50 CFR 300.172 to state explicitly that the vessel list is effective for only one calender year and will be recompiled beginning on January 1 of each year. Additional vessels may be added to the list throughout the year in accordance with 50 CFR 300.172.

Classification

The Regional Administrator, NMFS Southwest Region, determined that this proposed rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq*.

This proposed rule has been determined to be not significant for the purposes of Executive Order (E.O.) 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

A fishing vessel is considered a ''small'' business by the U.S. Small Business Administration (SBA) if its annual receipts are not in excess of $4.0 million (NAICS Code 114111). Because all of the vessels fishing for HMS have annual receipts below $4.0 million, they would all be considered small businesses under the SBA standards. Therefore this rule will not create disproportionate costs between small and large vessels/businesses. Based on historic interest and recent U.S. participation in 2006, NMFS anticipates that the rule could impact approximately 100 vessels annually.

The revision of the methodology for developing the list of vessels eligible to fish for albacore tuna in Canadian waters under the U.S. Canada Albacore Tuna Treaty presents little burden to the public. The submission of a request by a vessel owner with the required information as a result of this new regulation is expected to present a minimal burden. The public reporting burden for requesting to be placed on the list of vessels eligible to fish in Canadian waters is estimated to average 0.08 hours per vessel or about 5 minutes each, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The only expected cost to a vessel owner requesting to be on the eligible list will be the cost associated with contacting NMFS by mail, fax, phone, or email. NMFS also does not anticipate a drop in profitability based on this rule, as it should not have a significant effect on the fishermen's ability to harvest HMS. Therefore, the proposed action, if implemented, will not have a significant impact on a substantial number of small entities.

Based on the analysis above, the Chief Counsel for Regulation of the Department of Commerce has determined that there will not be a significant economic impact to a substantial number of these small entities. As a result, a regulatory flexibility analysis is not required and none has been prepared.

This proposed rule for revising the methodology for developing the list of vessels eligible to fish for albacore tuna in Canadian waters under the U.S. Canada Albacore Tuna Treaty presents contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) that has been approved by OMB under control number 0648–0492. Public reporting burden for requesting to be placed on the list of vessels eligible to fish in Canadian waters is estimated to average 0.08 hours per vessel or about 5 minutes each, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to *David__Rostker@omb.eop.gov*, or fax to (202) 395–7285.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects in 50 CFR Part 300

Fisheries, High seas fishing, International agreements, Permits, Reporting and recordkeeping requirements.

Dated: February 1, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator For Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend part 300 as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

1. The authority citation for part 300 continues to read as follows:

Authority: Sec. 401, Pub. L. 108–219, 118 Stat. 616 (16 U.S.C. 1821 note).

2. Section 300.172 is revised to read as follows:

§ 300.172 Vessel list.

The ''vessel list'' is the list of U.S. vessels that are authorized to fish under the Treaty as amended in 2002. Only a vessel on the list for at least 7 days may engage in fishing in Canadian waters under the Treaty as amended in 2002. The owner of any U.S. vessel that wishes to be eligible to fish for albacore tuna under the Treaty as amended in 2002 must provide the Regional Administrator or his designee with the vessel name, the owner's name and address, phone number where the owner can be reached, the U.S. Coast Guard documentation number (or state registration number if not documented), and vessel operator (if different from the owner) and his or her address and phone number. On the date that NMFS receives a request that includes all the required information, NMFS will place the vessel on the annual vessel list. NMFS will notify fishermen by a confirmation letter or email of the date the vessel was placed on the list. Because the vessel list will revert to zero vessels on December 31 of each year, the required information must be provided in the manner specified on an annual basis.

[FR Doc. E7–2045 Filed 2–6–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 061206324–6324–01; I.D. 112006I]

RIN 0648–AU48

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod Allocations in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues a proposed rule that would implement Amendment 85 to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) and that would implement recent changes to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). If approved, Amendment 85 would modify the current allocations of Bering Sea and Aleutian Islands management area (BSAI) Pacific cod total allowable catch (TAC) among various harvest sectors and seasonal apportionments thereof. This action also would establish a hierarchy for reallocating projected unharvested amounts of Pacific cod from certain sectors to other sectors, revise catcher/processor sector definitions, modify the management of Pacific cod incidental catch that occurs in other groundfish fisheries, eliminate the Pacific cod nonspecified reserve, adjust the seasonal allowances of Pacific cod, subdivide among sectors the annual prohibited species catch (PSC) limits currently apportioned to the Pacific cod trawl and nontrawl fisheries, and modify the sideboard restrictions for American Fisheries Act (AFA) catcher/processor (CP) vessels. In addition, this proposed rule would increase the percentage of the BSAI Pacific cod TAC apportioned to the Community Development Quota (CDQ) Program. Amendment 85 is necessary to reduce uncertainty about the availability of yearly harvests within sectors caused by reallocations, and to maintain stability among sectors in the BSAI Pacific cod fishery. This would be accomplished by establishing allocations that more closely reflect historical use by sector than do current allocations while considering socioeconomic and community factors, thus reducing the need for reallocations during the fishing year (inseason). This proposed rule also is necessary to partially implement recent changes to the Magnuson-Stevens Act that require a total allocation of 10.7 percent of the TAC of each directed fishery to the CDQ Program starting January 1, 2008. This action is intended to promote the goals and objectives of the Magnuson-Stevens Act, the FMP, and other applicable laws.

DATES: Comments must be received no later than March 26, 2007.

ADDRESSES: Send written comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian, Records Officer. Comments may be submitted by:

- Hand delivery: 709 West 9th Street, Room 420A, Juneau, AK;
- E-mail: *0648–AU48–PR-AMD85@noaa.gov*. Include in the subject line the following document identifier: ''Pacific cod RIN 0648 AU48.'' E-mail comments, with or without attachments, are limited to 5 megabytes;
- Fax: 907–586–7557;
- Mail: P.O. Box 21668, Juneau, AK 99802–1668; or
- Webform at the Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions at that site for submitting comments.

Copies of Amendment 85 and the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) prepared for this action are available from NMFS at the above address or from the NMFS Alaska Region website at *http://www.fakr.noaa.gov*.

FOR FURTHER INFORMATION CONTACT: Becky Carls, 907–586–7228 or *becky.carls@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fisheries in the exclusive economic zone of the BSAI under the FMP. The North Pacific Fishery Management Council (Council) prepared the FMP under the authority of the Magnuson-Stevens Act, 16 U.S.C. 1801 *et seq.* Regulations governing U.S. fisheries and implementing the FMP appear at 50 CFR parts 600 and 679.

The Council has submitted Amendment 85 for review by the Secretary of Commerce, and a notice of availability of the FMP amendment was published in the **Federal Register** on December 7, 2006, (71 FR 70943) with comments on the FMP amendment invited through February 5, 2007.

Background and Need for Action

NMFS uses TACs to manage the harvest of groundfish species in the BSAI as one management tool to ensure sustainable fisheries. The FMP and its implementing regulations require NMFS, after consultation with the Council, to annually specify the TAC for each target species and for the ''other species'' category governed by the FMP. The Council develops TAC recommendations based on the acceptable biological catch (ABC) for each stock of fish and other socioeconomic factors. The ABC is based on the status of the stock, environmental conditions, and other ecological factors.

The FMP requires a TAC to be less than or equal to the ABC for each fish stock. Between 1991 and 1994, between 1998 and 2001, and in 2005, the Pacific cod TACs were set equal to their ABCs. Thus, typically all the BSAI Pacific cod that is available for harvest in a particular fishing year is completely allocated. The Pacific cod TAC allocations and apportionments for 2006 and 2007 are listed in Table 5 of the groundfish specifications published March 3, 2006 (71 FR 10900), and may be changed as necessary during any fishing year pursuant to 50 CFR 679.20(a)(7)(ii) and 679.25(a). Final 2006 and 2007 harvest specifications implemented a 2006 BSAI Pacific cod TAC of 194,000 mt, which equaled the 2006 ABC for Pacific cod. Shortly after publication, this TAC was adjusted downward to 188,180 mt (71 FR 13777, March 17, 2006) to accommodate a new Pacific cod fishery in State of Alaska waters in the Aleutian Islands and to avoid exceeding the ABC.

The current regulations provide for the overall TAC of BSAI Pacific cod, after subtraction of reserves, to be subdivided or allocated among eight non-CDQ fishing industry sectors based on the type of fishing gear used (50 CFR 679.20(a)(7)). Basically, these gear sectors include trawl gear, fixed gear (hook-and-line and pot), and jig gear. These basic allocations are further subdivided between catcher/processor vessels (CPs) that process their catch and catcher vessels (CVs) that catch fish but do not process it. Most allocations are further apportioned between seasons. The purpose of these allocations and apportionments is to prevent one industry sector from unfairly affecting the harvesting opportunities of other sectors and to ensure temporal dispersion of harvest to protect Steller sea lions (SSLs).

Currently, the BSAI Pacific cod non-CDQ TAC is fully distributed among the

following eight competing harvest sectors: jig, fixed gear (pot and hook-and-line gear) CVs less than 60 ft (18.3 m) length overall (hereafter, <60 ft LOA), hook-and-line CVs greater than or equal to 60 ft LOA (hereafter, ≥60 ft LOA), hook-and-line CPs, pot CVs ≥60 ft LOA, pot CPs, trawl CPs, and trawl CVs. Several FMP amendments, implemented beginning in 1994, have allocated Pacific cod among these sectors. The previous and current allocations, and those proposed under Amendment 85, are summarized in Table 1. The amendments are described in more detail below.

TABLE 1. PERCENT SECTOR ALLOCATIONS BY AMENDMENT AND YEAR IMPLEMENTED

Sector	Amend. 24 1994	Amend. 46 1997	Amend. 64 2000	Amend. 77 2004 (Current)	Proposed Amend. 85
Jig	2.0	2.0	2.0	2.0	1.4
Hook-and-line/pot CV <60 ft LOA	44.0	51.0	0.7	0.7	2.0
Hook-and-line CV ≥60 ft LOA			0.2	0.2	0.2
Hook-and-line CP			40.8	40.8	48.7
Pot CV ≥60 ft LOA			9.3	7.6	8.4
Pot CP				1.7	1.5
AFA trawl CP	54.0	23.5	23.5	23.5	2.3
Non-AFA trawl CP					13.4
Trawl CV		23.5	23.5	23.5	22.1

BSAI Pacific Cod Allocation History

In the early years of the fishery, BSAI Pacific cod was an open access fishery prosecuted primarily by trawl gear. Under open access management, Pacific cod was not allocated among competing fishermen. As the market value of Pacific cod increased with the removal of foreign and joint venture fisheries in 1990, the domestic fixed gear sector (including pot and hook-and-line gear) began to increase its harvest of the TAC. Hook-and-line CPs, in particular, contributed to the growth of the fixed gear sector's use of Pacific cod TAC. Any consideration of rationalizing the Pacific cod fishery during the 1990s through individual fishing quotas (IFQs) or other market-based allocation schemes was strongly opposed by the fixed gear sector as its share of the Pacific cod TAC was growing. At this stage of the industry's development, sector allocations emerged as a policy more acceptable to the Pacific cod fleet than IFQs or similar rationalization policies.

A sector allocation is based on the principle that good fences make good neighbors. The fence in this case is the division of the TAC among competing harvesting sectors. Each sector is allocated its own portion of the TAC that is protected from incursions by other sectors. Federal regulations require a sector to stop conducting directed fishing for Pacific cod when its allocation is exhausted, even if TAC allocated to other sectors remains unharvested. Although sector allocations do not prevent a race-for-fish by competing fishermen within a sector, they do bring some short-term stability and certainty to fishermen within the sectors as compared to having no sector allocations. This was the policy rationale for the Council's first recommendation for sector allocations of Pacific cod TAC in Amendment 24.

In 1994, NMFS began to allocate the Pacific cod TAC with the implementation of BSAI Amendment 24 to the FMP (59 FR 4009, January 28, 1994). The allocations roughly represented the harvests of the trawl and fixed gear sectors during 1991 through 1993. Although the 2.0 percent jig sector allocation exceeded the historical harvest by this sector, it was intended to allow for growth in the sector. Competition within the trawl and fixed gear sectors eventually led to the Council recommending, in subsequent amendments, further subdivisions of the allocations to these sectors to provide the desired stability within the subdivided sectors.

Amendment 46, implemented in 1997 (61 FR 59029, November 20, 1996), further split the trawl allocation equally between CVs and CPs. The action also included specific authority for NMFS to annually reallocate among the various sectors, if necessary, any portion of the Pacific cod allocations that were projected to remain unused.

After Amendment 46 was implemented, members of the fishing industry asked the Council to further allocate Pacific cod in the BSAI among the various fixed gear sectors. The Council developed Amendment 64 which further apportioned the 51 percent allocated to the fixed gear sector into four new sectors (see Table 1). NMFS approved Amendment 64 and it was implemented September 1, 2000 (65 FR 51553, August 24, 2000). Because Amendment 64 was scheduled to expire at the end of 2003, Amendment 77 was initiated to continue or modify the fixed gear sectors' allocations beyond 2003.

The current allocations are those that were adopted by the Council and approved by NMFS under Amendment 77 (68 FR 49416, August 18, 2003). Amendment 77 continued the same overall fixed gear sector allocations as under Amendment 64, except for a new apportionment between the pot gear CV and CP sectors. Currently, hook-and-line and pot CVs <60 ft LOA are allowed to fish under the general hook-and-line CV allocation and general pot CV allocation, respectively, when these fisheries are open. When these fisheries are closed, the <60 ft LOA sector harvest accrues to the <60 ft LOA hook-and-line and pot CV allocation.

The harvest on which the percentage allocations were based under Amendments 64 and 77 in the fixed gear sectors excluded the harvest of Pacific cod that was reallocated from other gear sectors. Except for the pot gear sector split, the percentage allocations under Amendment 77 closely represented the harvests for fixed gear in this fishery during 1995 through 1999, with an

additional allocation for CVs <60 ft LOA, to allow for growth in the small boat sector. The pot gear sector allocations were based on harvests from 1998 through 2001.

While the Council was considering adjustments to the Pacific cod allocations to the non-CDQ sectors under what became Amendment 64, the Council adopted and NMFS approved Amendment 39 in 1998 (63 FR 8356, February 19, 1998). Under Amendment 39, a percentage of various groundfish species including Pacific cod was allocated to the CDQ Program. From 1998 onward, 7.5 percent of the BSAI Pacific cod TAC was deducted for the CDQ reserve. The remainder of the TAC after the deduction for the CDQ reserve is referred to as the non-CDQ TAC. When the multispecies CDQ Program was implemented in 1998, the non-CDQ Pacific cod TAC was allocated in accordance with the percentages established by Amendment 46, and since then as further modified by Amendments 64 and 77.

History of Pacific Cod Reallocations

Under the existing allocations, one or more sectors are typically unable to harvest their annual allocation of the Pacific cod TAC. Section 301(a)(1) of the Magnuson-Stevens Act, also known as National Standard 1, states, ''Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.'' Thus, to provide an opportunity for the full harvest of the BSAI Pacific cod non-CDQ TAC, existing allocations of Pacific cod that are projected to be unharvested by some sectors are annually reallocated by NMFS to other sectors. Current regulations governing the reallocation of BSAI Pacific cod are found at § 679.20(a)(7)(ii).

Since BSAI Pacific cod sector allocations have been in effect, NMFS has reallocated Pacific cod each year from the trawl and jig sectors to fixed gear sectors. In 2002 and in 2004, reallocations also were made from the pot gear sectors to the hook-and-line CP sector. Reallocations within gear types (e.g., trawl CPs to trawl CVs, or hook-and-line CVs to hook-and-line CPs) have occurred less frequently and in lower amounts. As shown in Table 2, the majority of reallocations, in terms of metric tons, have been from the trawl sectors to the hook-and-line CPs between 2000 and 2004. The starting point for this table is the year 2000 because that was the first year in which the fixed gear allocation was split among the hook-and-line CP, hook-and-line CV, pot gear, and <60 ft LOA fixed gear sectors.

TABLE 2. AVERAGE BSAI PACIFIC COD REALLOCATION BY SECTOR, 2000–2004

Sector	Initial allocation (mt)	Reallocation (mt)	Reallocation as percent of initial allocation
Jig	3,715	-3,309	-89%
Hook-and-line/pot CV <60 ft LOA	1,312	309	24%
Hook-and-line CV ≥60 ft LOA	283	120	42%
Hook-and-line CP	75,006	16,861	22%
Pot gear	17,244	-739	-4%
Trawl CP	43,649	-8,483	-19%
Trawl CV	43,649	-4,760	-11%

Unused seasonal allowances specified for the jig sector are reallocated during each of its three seasons. All other gear sector reallocations usually occur in the fall because unused seasonal allowances that remain unharvested earlier in the year are rolled over to each sector's subsequent season. Typically, reallocations from trawl to fixed gear sectors occur in October and November, and always during the trawl C season (June 10 to November 1).

NMFS reallocates unused Pacific cod allocations for a variety of reasons. Reallocations from the jig sector are primarily due to insufficient effort in that sector in the BSAI. Several reasons are commonly cited for trawl reallocations including closure of the directed trawl fisheries due to reaching the halibut PSC allowance, relatively high annual allocations in alternative trawl fisheries such as pollock (for AFA vessels), and high value alternative trawl fisheries such as yellowfin sole, rock sole, and flathead sole (for non-AFA trawl CPs). Additionally, under SSL mitigation measures which started in 2001, the creation of a 20 percent seasonal apportionment in the C season for trawl gear led to trawl reallocations. The trawl sectors' inability to harvest their total allocations resulted from the increased difficulty in catching Pacific cod with trawl gear later in the year when those fish are less aggregated (lower catch per unit effort). Prior to the SSL mitigation measures, the trawl gear sectors were allowed to harvest their total Pacific cod allocation earlier in the year.

The increased difficulty in harvesting Pacific cod in the second half of the year is not unique to the trawl sector. All gear sectors have increased difficulty harvesting Pacific cod later in the year when those fish are less aggregated. Also, weather is a significant factor for the vessels in smaller CV sectors in the fall season. The hook-and-line sectors are limited by halibut bycatch in the second half of the year. These sectors do not have a halibut bycatch allowance from June 10 to August 15 under the annual harvest specifications which effectively closes directed fishing for Pacific cod during this period. The amount of Pacific cod the fixed gear sectors could harvest in the first half of the year was reduced in 2001 as part of the SSL protection measures. The hook-and-line sector would prefer to harvest its Pacific cod allocation earlier in the year when its incidental take of seabirds is lower.

In developing Amendment 85, the Council determined that current allocations do not correspond with actual dependence and use by the existing sectors, as demonstrated by the need for annual reallocations. Reallocations maintain a level of uncertainty for some sectors regarding the amount of Pacific cod available for harvest. The Council expects that

uncertainty to decrease due to the revisions to the Pacific cod non-CDQ allocations under this proposed rule.

Amendment 85 History

Amendment 85 is the most recent action by the Council in a long history of actions to allocate BSAI Pacific cod TAC among competing sectors as described above and in Table 1. The development of Amendment 85 began in October 2002 when the Council initiated discussions regarding the allocation of certain BSAI groundfish species to the non-AFA trawl CP sector. In February 2003, the Council considered a vastly expanded program for this sector, known as Amendment 80, to establish a multispecies cooperative intended to facilitate greater retention improvements, allocate PSC, and address a number of sector allocation issues that would arise from a stand-alone allocation and cooperative (for the non-AFA trawl CP sector). In April 2003, the Council further expanded Amendment 80 to include allocations of non-pollock species and PSC to ten sectors operating in the BSAI as a means to minimize potential impacts on sectors that might arise from any direct allocations and cooperatives provided to the non-AFA trawl CP sector alone.

Growing demand for Pacific cod, a fully exploited fishery, and other distributional concerns among sectors led the Council to consider a separate action to revise allocations of Pacific cod among the many BSAI groundfish sectors. After further consideration, public testimony, and preliminary analyses, the Council simplified Amendment 80 in October 2004 to provide allocations only to the non-AFA trawl CP sector and removed allocation of Pacific cod from that proposed program. The intent of the Council was to streamline Amendment 80 and shift it back to its original intent, to provide the non-AFA trawl CP sector with a tool to reduce groundfish and PSC discards and improve retention. The Council then initiated a new plan amendment, which became Amendment 85, to alter the current BSAI Pacific cod allocations.

In December 2004, the Council reviewed a discussion paper outlining prior Council actions regarding BSAI Pacific cod allocations, the relevant problem statements associated with these past actions, and potential decision points related to structuring new alternatives and options for analysis. Upon review of the discussion paper, the Council approved a problem statement and a document outlining draft components and options for the new amendment. The problem statement and suite of alternatives and options have been revised several times since that initial discussion. The Council's final problem statement focuses on revising the BSAI Pacific cod allocations to all sectors (trawl, jig, hook-and-line, pot, and CDQ):

> The BSAI Pacific cod fishery is fully utilized and has been allocated among gear groups and to sectors within gear groups. The current allocations among trawl, jig, and fixed gear were implemented in 1997 (Amendment 46) and the CDQ allocation was implemented in 1998. These allocations are overdue for review. Harvest patterns have varied significantly among the sectors resulting in annual inseason reallocations of TAC. As a result, the current allocations do not correspond with actual dependency and use by sectors.
>
> Participants in the BSAI Pacific cod fishery who have made significant investments and have a long-term dependence on the resource need stability in the allocations to the trawl, jig, fixed gear, and CDQ sectors. To reduce uncertainty and provide stability, allocations should be adjusted to better reflect historic use by sector. The basis for determining sector allocations will be catch history as well as consideration of socio-economic and community factors.
>
> As other fisheries in the BSAI and GOA are incrementally rationalized, historical participants in the BSAI Pacific cod fishery may be put at a disadvantage. Each sector in the BSAI Pacific cod fishery currently has different degrees of license requirements and levels of participation. Allocations to the sector level are a necessary step on the path towards comprehensive rationalization. Prompt action is needed to maintain stability in the BSAI Pacific cod fisheries.

While the FMP does not have a sunset provision nor regulatory requirement to review or modify the sector allocations, the Council's motion on Amendment 46 included a provision to review the overall gear sector allocations four years after implementation. That review, originally intended at the end of 2000, occurred with Amendment 85.

Description of the Proposed Action

This amendment is intended by the Council to modify the sector allocations currently in place to better reflect actual dependency and use by sector, in part by basing the allocations on each sector's historical retained catch. One of the fundamental issues identified in the Council's problem statement is the need to revise the existing allocations to better reflect actual historical catch by sector, thus reducing the need for frequent and significant reallocations of quota toward the end of the year from sectors that are unable or otherwise do not intend to harvest their entire allocation. Thus, the catch history on which the proposed allocations were partially based included Pacific cod that was reallocated from one sector to another due to the first sector's projected inability to harvest its entire allocation by the end of the year. The intent of the Council under Amendment 85 is to establish direct allocations for each specified sector in the BSAI Pacific cod fishery, in order to protect the relative historical catch distribution among those sectors.

However, there are noted exceptions to basing the allocations solely on catch history. The problem statement asserts that in addition to catch history, socioeconomic and community concerns should be the basis for determining sector allocations. Amendment 85 would establish BSAI Pacific cod allocations to the jig sector, the <60 ft LOA fixed gear CV sector, and the CDQ sector that are based on identified percentages of the TAC, and not actual catch history. This action would establish allocations to both the jig sector and to the <60 ft LOA fixed gear CV sector that are greater than those sectors' average catch histories. The allocations to the small boat sectors are intended by the Council to expand entry-level, local opportunities in the BSAI Pacific cod fishery. In general, however, the Council's proposed allocations of Pacific cod non-CDQ TAC are intended to formally institutionalize the historical pattern of utilization of this resource.

The Council also considered more refined allocations to the BSAI Pacific cod sectors, by evaluating the potential for establishing separate and distinct allocations for the non-AFA trawl CP and AFA trawl CP sector and the non-AFA trawl CV and AFA trawl CV sectors. The trawl CP sectors currently have a combined BSAI Pacific cod allocation of 23.5 percent of the non-CDQ BSAI Pacific cod TAC, as do the trawl CV sectors. Thus, all trawl gear combined currently receives 47 percent of the non-CDQ BSAI Pacific cod TAC.

The Council adopted Amendment 85 in April 2006. If approved by the Secretary of Commerce, Amendment 85 would modify the following provisions in the FMP: (a) sector allocations of BSAI Pacific cod TAC, (b) TAC deductions for incidental catch allowances of Pacific cod in other target fisheries, (c) the groundfish reserve for Pacific cod, (d) the Pacific cod allocation to the CDQ Program, and (e) the appendices of the FMP by adding a new appendix that summarizes applicable provisions of the Consolidated Appropriations Act of 2005 (Public Law 108–447). Because the Amendment 85 sector allocations cannot be implemented mid-year, the

final rule implementing Amendment 85, if approved, would be effective the following January 1st. Thus, the earliest effective date for the rule implementing Amendment 85 would be January 1, 2008.

This proposed rule would make the following changes in regulations for the management of the BSAI directed Pacific cod fishery:

- Increase the percentage of the BSAI Pacific cod TAC apportioned to the CDQ Program.
- Revise the allocations of BSAI Pacific cod non-CDQ TAC among various gear sectors.
- Modify the management of Pacific cod incidental catch that occurs in other groundfish fisheries.
- Eliminate the Pacific cod nonspecified reserve.
- Establish a hierarchy for the reallocation of projected unused sector allocations to other sectors.
- Adjust the seasonal allowances of Pacific cod to various sectors.
- Subdivide among sectors the annual PSC limits apportioned to the Pacific cod trawl and hook-and-line gear fisheries.
- Modify the sideboard restrictions for Pacific cod that are applied to the CP vessels listed as eligible under the AFA.
- Revise the definition for AFA trawl catcher/processor and add definitions for hook-and-line catcher/processor, non-AFA trawl catcher/processor, and pot catcher/processor.

In developing Amendment 85, the Council considered dividing the Pacific cod TAC in the BSAI between the Bering Sea (BS) and Aleutian Islands (AI) subareas. At its April 2006 meeting, the Council voted to remove this action from Amendment 85 and initiate a new analysis that would examine additional alternative approaches to apportioning sector allocations between the two subareas. If conservation of the Pacific cod resource requires separate TACs for the BS and AI subareas before the Council adopts and NMFS approves a different approach to apportioning Pacific cod sector allocations between the two subareas, NMFS would apply the same percentages of the sector allocations to each subarea as in the overall BSAI allocations in existence at that time.

Recent Legislation Affecting the Proposed Rule

On December 8, 2004, the President signed into law the Consolidated Appropriations Act, 2005 (Public Law 108–447)(Act). With respect to fisheries off Alaska, the Act establishes catcher processor sector definitions for participation in (1) the catcher processor subsectors of the BSAI non-pollock groundfish fisheries, and (2) the BSAI Catcher Processor Capacity Reduction Program. The following subsectors are defined in section 219(a) of the Act: AFA trawl catcher processor; non-AFA trawl catcher processor; longline catcher processor; and pot catcher processor.

Section 219(a) of the Act also defines the ''non-pollock groundfish fishery'' as target species of Atka mackerel, flathead sole, Pacific cod, Pacific ocean perch, rock sole, turbot, or yellowfin sole harvested in the BSAI. Thus, the Act provides the qualification criteria that each participant in the CP subsectors must meet in order to operate as a CP in the BSAI non-pollock groundfish fishery, or participate in the BSAI Catcher Processor Capacity Reduction Program, or both.

Because Amendment 85 would allocate Pacific cod (a non-pollock groundfish fishery under the Act) to CPs operating in the BSAI, this proposed rule includes new or revised definitions for AFA trawl CP, hook-and-line CP, non-AFA trawl CP, and pot CP, consistent with the provisions of the Act.

The Act includes numerous provisions that are not related to the management of groundfish and crab fisheries off Alaska. Therefore, this proposed rule includes in regulatory text only those portions of the Act related to eligibility in catcher processor subsectors. The portions of the Act authorizing and governing the development of the BSAI Catcher Processor Capacity Reduction Program are not provided in the proposed rule.

On July 11, 2006, the President signed into law the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109–241), that, among other things, completely revised the CDQ Program statutory text at section 305(i)(1) of the Magnuson-Stevens Act. Specifically, section 305(i)(1)(B)(ii)(I) required that most of the allocations to the CDQ Program, including Pacific cod, increase from 7.5 percent of the TAC to a 10 percent directed fishing allocation upon the establishment of certain types of fishery management programs, including sector allocations in a fishery. Because Amendment 85, if approved, would establish sector allocations in the BSAI Pacific cod fishery, the proposed FMP amendment language and the proposed rule for Amendment 85 submitted to the Secretary by the Council included provisions consistent with the requirements of section 305(i)(1)(B)(ii)(I). As noted earlier, NMFS published the notice of availability for Amendment 85 in the **Federal Register** on December 7, 2006.

On January 12, 2007, the President signed into law the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (Magnuson-Stevens Reauthorization Act) (Public Law 109–479) that, among other things, amended section 305(i)(1)(B)(ii)(I). This section now requires that most of the allocations to the CDQ Program, including Pacific cod, increase to ''a total allocation (directed and nontarget combined) of 10.7 percent effective January 1, 2008.'' Section 305(i)(1)(B)(ii) also states that the total allocations under section 305(i)(1)(B)(ii)(I) may not be exceeded.

Because of the changes to the CDQ Program allocations brought about by the Magnuson-Stevens Reauthorization Act, NMFS determined that the proposed rule for Amendment 85 as originally submitted by the Council was no longer consistent with the Magnuson-Stevens Act. On January 17, 2006, NMFS notified the Council in writing of the inconsistencies and provided the Council with recommendations on revisions that would make the proposed rule consistent with the new provisions of the Magnuson-Stevens Act. The Council revised the proposed rule and submitted it to NMFS for reevaluation on January 19, 2007. This proposed rule reflects the revisions made by the Council in its January 19, 2007, submission.

Additional information on the proposed changes to the CDQ Program follow.

Allocation of Pacific Cod to the CDQ Program

The Western Alaska CDQ Program was implemented in November 1992 as part of the inshore/offshore allocations of pollock in the BSAI. Originally, the CDQ Program established a CDQ reserve to which one half of the non-specific reserve of 15 percent of the pollock TAC was allocated. Hence, the original CDQ reserve was 7.5 percent of the BSAI pollock TAC. The CDQ Program has since been amended several times and now, in addition to pollock, the CDQ reserve includes allocations of halibut, crab, and most of the remaining groundfish species in the BSAI, including Pacific cod. The 7.5 percent allocation of BSAI Pacific cod to the CDQ reserve was established when the multispecies CDQ reserves were implemented in 1998. The current percentages of TAC allocated to the CDQ reserves are as follows: 10 percent of pollock; 10 percent of crab species (with the exception of Norton Sound red king crab at 7.5 percent); 20 percent of fixed gear sablefish; a range of 20 percent to 100 percent of halibut,

depending on the area; and 7.5 percent of most groundfish species and species groups, including Pacific cod. Pro-rata shares of prohibited species are also allocated to the prohibited species quota, or PSQ, reserve. Under the adjusted March 2006 Pacific cod TAC, 14,114 mt of Pacific cod, the equivalent of 7.5 percent of the Pacific cod TAC, was allocated to the CDQ reserve.

Six non-profit corporations, known as CDQ groups, were formed by the 65 communities eligible to participate in the CDQ Program to manage and administer the CDQ allocations, investments, and economic development projects. Each of the six CDQ groups is allocated an amount of Pacific cod at the beginning of each year that equals its proportional share of the amount of Pacific cod allocated to the CDQ reserve. Currently, all catch of Pacific cod by any vessel fishing for groundfish CDQ, and by any vessel ≥60 ft LOA fishing for halibut CDQ, accrues against a CDQ group's allocation of Pacific cod. The CDQ groups are prohibited by regulations at § 679.7(d)(5) from exceeding any of their CDQ allocations. Therefore, reaching a CDQ allocation for one species constrains the ability of a CDQ group to continue to fish for other groundfish CDQ species, except for reaching the CDQ allocation of pollock, because the CDQ incidental catch of pollock is deducted from the general pollock incidental catch allowance.

When Amendment 85 was adopted in April 2006, the Council recommended that the Pacific cod CDQ reserve remain at 7.5 percent, but recognized that proposed Congressional legislation could change this percentage. As described above, the Magnuson-Stevens Act now requires that 10.7 percent of the annual Pacific cod TAC be allocated to the CDQ reserve for directed and nontarget fishing combined. The 10.7 percent Pacific cod allocation to the CDQ reserve would be established annually in the harvest specifications process required under § 679.20(c). Currently, the CDQ reserve is deducted from the Pacific cod TAC before the remaining Pacific cod TAC is allocated to the other fishing sectors. As intended by the Council, this would be continued under Amendment 85.

Each CDQ group would decide how to manage its CDQ fisheries and how to allocate its portion of the Pacific cod TAC among its vessels and target fisheries. The CDQ groups must continue to manage their fisheries within the seasonal allowances currently specified to comply with SSL protection measures, as described in more detail under ''Seasonal Allowances.'' All catch of Pacific cod by any vessel groundfish CDQ fishing, and by any vessel ≥60 ft LOA halibut CDQ fishing, will continue to accrue against the CDQ group's annual allocation of Pacific cod and the CDQ groups will continue to be prohibited from exceeding their annual allocations of Pacific cod.

Non-CDQ Sector Allocations

Under Amendment 85, the Council selected nine individual non-CDQ sectors to receive separate BSAI Pacific cod allocations. The allocations to the identified sectors were selected using catch history from 1995 through 2003 and other socioeconomic and community considerations. The Council concluded that the adopted allocations better reflected actual dependency and use by each sector, with specific consideration to allow for additional growth in the small boat, entry-level sectors. The primary objective of the Council in revising the BSAI Pacific cod non-CDQ TAC allocations to each sector was to reduce the level and frequency of annual reallocations, and thus enhance stability so each sector may better plan its fishing year and operate more efficiently.

This action proposes to allocate the BSAI TAC of Pacific cod among the nine non-CDQ sectors, after subtraction of the CDQ reserve. The current and proposed allocations of BSAI Pacific cod non-CDQ TAC compared to average harvest share (average of each sector's percent of the total harvest each year, including harvest of reallocated amounts of Pacific cod) between 1995 and 2003 and between 2000 and 2003 are presented in Table 3.

TABLE 3. CURRENT AND PROPOSED ALLOCATIONS OF BSAI PACIFIC COD NON-CDQ TAC AND AVERAGE HARVEST SHARE BY SECTOR (PERCENT)

Sectors	Amend. 77 (Current)	Amend. 85 (Proposed)	Average share of retained harvest 1995-2003 (average historic harvest)	Average share of retained harvest 2000-2003 (recent average harvest)
Jig	2.0	1.4	0.1	0.1
Hook-and-line/pot CV <60 ft LOA	0.7	2.0	0.4	0.7
Hook-and-line CV ≥60 ft LOA	0.2	0.2	0.1	0.3
Hook-and-line CP	40.8	48.7	49.1	49.4
Pot CV ≥60 ft LOA	7.6	8.4	8.6	9.0
Pot CP	1.7	1.5	2.1	1.4
AFA trawl CP	23.5	2.3	2.2	1.5
Non AFA trawl CP		13.4	13.4	16.0
Trawl CV	23.5	22.1	24.0	21.6

The average harvest shares from 1995 through 2003 shown in Table 3 were calculated using weekly production reports and Alaska Department of Fish and Game fishtickets, and included Pacific cod retained for fishmeal production. Table 4 shows average harvest share in 2004 to 2005 using data from the NMFS catch accounting database. The NMFS accounting database, which uses observer estimates of retained catch, included Pacific cod destined for fishmeal production on CPs ≥125 feet (38.1 m) LOA with 100 percent observer coverage rather than weekly production reports.

TABLE 4. AVERAGE SHARE (PERCENT) OF RETAINED HARVEST 2004-2005

Sector	Average share
Jig	0.1
Hook-and-line/pot CV <60 ft LOA	1.7
Hook-and-line CV ≥60 ft LOA	0.01
Hook-and-line CP	50.6
Pot CV ≥60 ft LOA	6.0
Pot CP	1.7
AFA trawl CP	2.2
Non-AFA trawl CP	17.7
Trawl CV	20.0

While the two data sets in Tables 3 and 4 are not exactly comparable due to the different data sources, the data in Table 4 generally indicate that the overall BSAI harvest shares by sector in 2004 to 2005 are within the range of what occurred during 1995 to 2003, with a few exceptions. The <60 ft LOA fixed gear (pot and hook-and-line gear) share of the BSAI Pacific cod harvest increased in the past two years compared to the 1995 to 2003 average, likely due to additional quota reallocated from the jig sector starting in 2004. Table 4 shows that this sector harvested about 1.7 percent of the BSAI Pacific cod harvest from 2004 to 2005, compared to an average retained harvest share of 0.4 percent during 1995 to 2003.

Another notable exception is the non-AFA trawl CP sector. This sector's average harvest share from 2004 to 2005 was 17.7 percent. While the harvest share of this sector has not been less than 15.3 percent since 2000, its much lower harvest shares during 1995 to 1998 resulted in an overall harvest share during 1995 to 2003 of 13.4 percent.

The ≥60 ft LOA pot CV sector's share of Pacific cod harvest decreased in the past two years compared to all but one year during 1995 - 2003. The pot CP share, while greater in 2004 and 2005 (1.7 percent) than in 2002 and 2003 (1.0 percent), was still lower than the average retained harvest share of 2.1 percent during 1995 to 2003.

All sectors, with the exception of the <60 ft LOA fixed gear CV sector and the non-AFA trawl CP sector, had harvests in 2004 and 2005 that fell within the range of their respective catch shares during 1995 to 2003. Thus, although the data in Table 4 are not truly comparable to the retained harvest data in Table 3 due to the use of a different data set, they provide a general view of the fishery in the two most recent years.

The Council based the proposed allocations on historical catch as adjusted by its decision to increase the harvest opportunities for the fleets delivering shoreside, which include some of the small boat sectors. Therefore, for the most part, proposed changes in allocations represent changes in a sector's opportunity to harvest. Before recommending this action, the Council heard extensive public testimony from members of each sector, indicating their desire to maintain or increase their allocations. In its allocation decision, the Council considered all of the harvest data provided to it by Council staff and comments received from the public.

For most sectors the allocations recommended by the Council under Amendment 85 more closely represent a sector's average harvest share over several years, as opposed to one or two recent years, than do the current allocations, as shown in Table 3. The allocations recommended by the Council were within the range of allocation options presented in the EA/RIR/IRFA for Amendment 85 (see Table 8 below). The Council did not select a specific series of years, but instead selected direct allocation percentages.

The Council examined information on retained harvest history from 1995 to 2005, and information on total catch, which included Pacific cod that was discarded. However, the Council chose from a range of percentage allocations that were based on retained legal harvest of Pacific cod, not total catch. Pacific cod is required to be retained when the directed fishery is open. When the directed Pacific cod fishery is closed, Pacific cod must be retained up to the maximum retainable amount (MRA); the rest of the Pacific cod that is caught must be discarded. For example, about 1.2 percent of the total Pacific cod harvest was discarded in 2004. It was not the Council's intent to ''reward'' sectors that have high discards of Pacific cod when the directed fishery for Pacific cod is closed.

The proposed allocation to jig vessels and the <60 ft LOA fixed gear CVs is greater than those sectors' catch histories due to socioeconomic and community considerations. The proposed allocations to these two small-boat sectors are intended by the Council to maintain and expand entry-level, local opportunities in the BSAI Pacific cod fishery. These fleets, primarily CVs, typically are comprised of residents of small, coastal communities near the fishing grounds. Public comments specifically supported allocations of 2.0 percent each to the jig sector and to the <60 ft LOA fixed gear sector, which the Council took into consideration in making the allocations to these two sectors.

The following paragraphs provide additional information on the Council's recommended allocation of Pacific cod to each non-CDQ sector.

Jig Gear Sector

The allocation to the jig sector of the BSAI Pacific cod non-CDQ TAC would be reduced from the current 2.0 percent to a proposed allocation of 1.4 percent. The jig sector's average annual share of the retained Pacific cod harvest from 1995 through 2003 (average historic harvest) is only about 0.1 percent, which represents about 5 percent of its current total allocation. The jig sector's more recent average annual share of the retained Pacific cod harvest, from 2000 through 2003 (recent average harvest), also is about 0.1 percent. This same trend continued in 2004 and 2005. As a result of this low harvest percentage, the unused jig sector allocation has been reallocated to other sectors, usually late in the fishing year. The Council determined that, although the proposed allocation is lower than this sector's current allocation, the proposed allocation would still allow for growth in this entry-level sector, while reducing the amount of Pacific cod that may need to be reallocated to other sectors. Any reallocations that would occur would first consider the other small boat sector (<60 ft LOA fixed gear CVs).

The Council's preferred alternative designated the jig sector as ''jig CV sector.'' The Council's intent, however, was that this sector include all vessels using jig gear to harvest BSAI Pacific cod, whether CVs or CPs, as is the case under current regulations. While the jig sector is typically comprised only of CVs, one jig vessel has operated as a CP in the BSAI Pacific cod fishery. All harvest by all jig vessels was included in the jig sector harvest history considered under the allocation determination. Further, the jig sector would continue to include CVs and CPs given the small harvest, relative to their allocation, of Pacific cod by vessels using jig gear and the absence of competition for available Pacific cod between CVs and CPs.

Less Than 60 ft LOA Hook-and-line or Pot CV Sector

Under the proposed rule, the allocation to the <60 ft LOA fixed gear CV sector of the BSAI Pacific cod non-CDQ TAC would increase from its current amount of 0.7 percent to a

proposed allocation of 2.0 percent. This sector's average historic harvest is 0.4 percent, and its recent average harvest is 0.7 percent. The <60 ft LOA fixed gear CV sector's percent share of the overall Pacific cod harvest has grown steadily in recent years from 0.2 percent in 2000 to about 1.7 percent in 2004 and in 2005. This sector has harvested its entire allocation of 0.7 percent for several years, and started receiving reallocations from the jig sector in 2004. The Council chose to increase the allocation to this small-boat sector to encourage its increased growth.

Currently, the <60 ft LOA hook-and-line CVs also fish from the general hook-and-line CV sector allocation of 0.2 percent, and the <60 ft LOA pot CVs also fish from the general pot CV sector allocation of 8.4 percent until those fisheries close. Under Amendment 85, the <60 ft LOA fixed gear CV sector would fish only from its own proposed direct allocation of 2.0 percent.

Greater Than or Equal to 60 ft LOA Hook-and-line CV Sector

The current allocation of 0.2 percent of the BSAI Pacific cod non-CDQ TAC to the ≥60 ft LOA hook-and-line CV sector would not change under this proposed rule. The ≥60 ft LOA hook-and-line CV sector's average historic harvest is 0.1 percent, and its recent average harvest is 0.3 percent. This sector harvested 0.01 percent of the total retained harvest in 2004 and in 2005. The majority of the overall hook-and-line CV allocation typically has been harvested by the <60 ft LOA hook-and-line CVs. However, as stated above, the <60 ft LOA hook-and-line CV sector would no longer fish from the general hook-and-line CV sector allocation, but would fish only from its proposed direct allocation. The proposed allocation is intended by the Council to represent the historical retained catch of Pacific cod by this sector. The Council also considered socioeconomic and community factors, such as the greater benefit brought to Bering Sea coastal communities by CVs, which deliver shoreside, versus the CPs that provide a smaller benefit to these coastal communities.

Hook-and-line CP Sector

The proposed allocation to the hook-and-line CP sector would increase the current allocation from 40.8 percent to 48.7 percent of the BSAI Pacific cod non-CDQ TAC. This sector's average historic harvest is 49.1 percent, and its recent average harvest is 49.4 percent. This sector harvested an average of 50.6 percent of the total retained harvest in 2004 and 2005. The Council chose to increase the hook-and-line CP sector's allocation to more closely reflect the sector's actual harvest including reallocations. This sector's average retained catch has been nearly 50 percent of the total BSAI non-CDQ Pacific cod harvest since 1995, due to its harvest of Pacific cod that is reallocated from other gear sectors toward the end of the year. By moving this reallocated amount into the sector's initial allocation, the sector is expected to be able to plan its fishing year with more certainty than is currently afforded, and harvest more of its Pacific cod allocation earlier in the second half of the fishing year. The Council also expects this sector to continue to benefit from reallocations from other sectors, so their total yearly catch should be close to their average historic harvest.

Greater Than or Equal to 60 ft LOA Pot CV Sector

The proposed allocation to the ≥60 ft LOA pot CV sector would increase the current allocation from 7.6 percent to 8.4 percent of the BSAI Pacific cod non-CDQ TAC. The ≥60 ft LOA pot CV sector's average historic harvest is 8.6 percent, and its recent average harvest is 9.0 percent. This sector harvested an average of 6.0 percent of the total retained harvest in 2004 and 2005. In the past, less than 1.0 percent of the overall pot CV allocation has been harvested by the <60 ft LOA pot CVs. However, as stated above, the <60 ft LOA pot CV sector would no longer fish from the general pot CV sector allocation, but would fish only from its proposed direct allocation. The Council chose to increase the ≥60 ft LOA pot CV sector's allocation to more closely reflect the sector's average historic harvest of Pacific cod including reallocations while considering socioeconomic and community factors, such as the greater benefit brought to Bering Sea coastal communities by CVs, which deliver shoreside, versus the CPs that provide a smaller benefit to these coastal communities. The Council also considered public testimony that supported an increase in the allocation to this pot sector because its catch has generally been increasing and its bycatch rate is very low compared to some other sectors.

Pot CP Sector

The pot CP sector is the only fixed gear sector that would receive a reduction in its BSAI Pacific cod allocation, from the current level of 1.7 percent to a proposed allocation of 1.5 percent of the BSAI Pacific cod non-CDQ TAC. This sector's average historic harvest is 2.1 percent, and its recent average harvest is 1.4 percent. This sector harvested an average of 1.7 percent of the total retained harvest in 2004 and 2005. The number of vessels participating in this sector has declined over the past several years, from 13 in 1999, to 10 in 2000, 5 in 2001 and 2002, 3 in 2003 and 2004, and 2 in 2005. Anecdotal evidence and public testimony suggest that some vessels have focused their efforts on the crab fisheries in recent years, and some vessels have not found it economically viable to fish for Pacific cod. The Council used this information in combination with the data on the historical retained catch of Pacific cod by the pot CP sector in arriving at its proposed allocation. The Council also considered socioeconomic and community factors, such as the greater benefit brought to Bering Sea coastal communities by CVs, which deliver shoreside, versus the CPs that provide a smaller benefit to these coastal communities.

Trawl CP Sector

Under this proposed rule, the current single trawl CP sector would be split into AFA and non-AFA trawl CP sectors. The combined trawl CP sector currently has an allocation of 23.5 percent of the BSAI Pacific cod non-CDQ TAC, which would be reduced to a total of 15.7 percent for the two trawl CP sectors. The intent of the Council in dividing the allocation between the two sectors was that each trawl CP sector would be better able to manage its own exclusive Pacific cod allocation under the cooperative systems either in place (for the AFA CP sector) or proposed (for the non-AFA trawl CP sector under Amendment 80 discussed previously).

AFA trawl CP sector. The AFA trawl CP sector's proposed allocation is 2.3 percent of the BSAI Pacific cod non-CDQ TAC. This sector's average historic harvest, including Pacific cod retained for fishmeal production, is 2.2 percent. The AFA trawl CP sector's recent average harvest is 1.5 percent, and it harvested an average of 2.2 percent of the total retained harvest in 2004 and 2005. The AFA trawl CPs, unlike the non-AFA trawl CPs, have meal plants onboard. Thus, Pacific cod meal is a primary product for only this sector. The history of nine trawl CPs was extinguished by section 209 of the AFA, and it was excluded by the Council in determining the proposed allocation to the AFA trawl CP sector. The proposed allocation is intended by the Council to represent the historical retained catch of Pacific cod by the AFA trawl CP sector while considering socioeconomic and community factors. Public testimony

concerning the directed fishery and bycatch needs of this sector was also considered by the Council.

About 44 percent of the Pacific cod harvested by the AFA trawl CP sector is taken incidentally when these vessels are targeting BSAI pollock. Only one AFA trawl CP vessel has targeted BSAI Pacific cod in the recent past. All sectors are required to retain all catch of Pacific cod when the directed fishery is open and up to the MRA when the directed Pacific cod fishery is closed. To maximize the opportunity for a directed Pacific cod fishery and to minimize the potential for an increase in discards of Pacific cod if catch exceeds the MRA, the Council determined that this sector should receive an allocation of Pacific cod that closely represents its average historic harvest of Pacific cod.

Non-AFA trawl CP sector. The non-AFA trawl CP sector would receive an allocation of 13.4 percent of the BSAI Pacific cod non-CDQ TAC under the proposed rule, its average share of the historic harvest, which is 13.4 percent. This proposed allocation is less than its recent average harvest share of 16.0 percent from 2000 through 2003, and less than its average of 17.7 percent of the total retained harvest in 2004 and 2005. The proposed allocation is intended by the Council to represent the historical retained catch of Pacific cod by the non-AFA trawl CP sector while considering socioeconomic and community factors.

About 46 percent of the Pacific cod harvested by the non-AFA trawl CP sector is taken as incidental catch in non-Pacific cod target fisheries, primarily the flatfish fisheries. Concern has been expressed by this sector that its proposed allocation will be insufficient to support its target fishery. NMFS agrees that this sector may be constrained in its ability to conduct a directed fishery for Pacific cod in order to have sufficient Pacific cod available for incidental catch in its other fisheries.

Trawl CV Sector

The proposed allocation to the trawl CV sector of the BSAI Pacific cod non-CDQ TAC would decrease the current allocation of 23.5 percent to 22.1 percent. This proposed allocation is less than this sector's average historic harvest of 24.0 percent. However, the proposed allocation is more than the trawl CV sector's recent average harvest of 21.6 percent, and more than its average of 20.0 percent of the total retained harvest in 2004 and 2005. The proposed allocation is intended by the Council to represent the historical retained catch of Pacific cod by the trawl CV sector while considering socioeconomic and community factors. In contrast to the trawl CP sectors, the trawl CVs primarily harvest their Pacific cod in the directed fishery, with only 6.9 percent taken as incidental catch in other target fisheries.

The Council chose to maintain the AFA and non-AFA trawl CVs as one sector. Public testimony before the Council advocated to not divide the trawl CVs into AFA and non-AFA sectors, as is proposed for the trawl CP sector. The Council considered this testimony in determining that maintaining the combined trawl CV allocation would allow the AFA trawl CV sector to continue to operate under its cooperative agreement and coordinate prosecution of the Pacific cod fishery with non-AFA trawl CV fishery participants. This approach is favored by AFA and non-AFA participants until such time that more restrictive eligibility criteria for participation in the fishery are implemented. The proposed rule does not change the Pacific cod AFA trawl CV sideboards and exemptions because the Council determined that they should remain to protect the Pacific cod harvest share of the non-AFA trawl CVs and of the AFA trawl CVs that are exempt from the Pacific cod sideboard limitations. Also, some members of the trawl CV sector requested that the Council maintain the AFA trawl CV sideboards to avoid the necessity of renegotiating their inter-cooperative agreement.

Incidental Catch Allowances for Non-CDQ Sectors

Under existing regulations, NMFS sets aside an amount of Pacific cod from some sectors' allocations as an incidental catch allowance. The incidental catch allowance is used by those sectors when directed fishing for groundfish other than Pacific cod. Under this proposed rule, incidental catch allowances would continue to be based on an estimated amount of Pacific cod that NMFS anticipates will be taken as incidental catch in directed fisheries for groundfish other than Pacific cod. As is the current practice, under the proposed rule, once a sector has harvested an amount of Pacific cod equal to the sector's directed fishing allowance, directed fishing for Pacific cod by vessels in that sector would be closed by NMFS.

Under Amendment 85, incidental catch allowances would continue to be set as they are currently for the fixed gear sectors. An incidental catch allowance for the fixed gear sectors would be established annually by the Regional Administrator during the annual harvest specifications process, and typically has been 500 mt. This fixed gear incidental catch allowance would be deducted from the aggregate portion of Pacific cod TAC annually allocated to hook-and-line and pot gear sectors before directed fishing allowances are made to each sector.

Under Amendment 85, an incidental catch allowance for each trawl sector would be developed on an inseason basis and would not be listed in the annual specifications. The trawl sectors currently do not have an incidental catch allowance established at the beginning of the year, as the fixed gear sectors do. NMFS currently has the regulatory authority to set directed fishing allowances and incidental catch allowances for Pacific cod within a particular sector during the fishing year. This system allows NMFS to close the directed trawl fishery for Pacific cod but allow other directed trawl fisheries to continue fishing under the incidental catch allowance. NMFS typically has not put the Pacific cod trawl fishery on bycatch status in the recent past, because the trawl sectors are not currently constrained by their Pacific cod allocations. Also, the seasonal apportionments to the trawl sectors have ensured that a sufficient amount of Pacific cod is left for incidental catch in groundfish trawl fisheries other than Pacific cod later in the year. Because of the reductions in the Pacific cod trawl sector allocations under Amendment 85, the Council proposed that an incidental catch allowance be established on an inseason basis for each trawl sector separately, rather than as a group, as the fixed gear sectors are, so that no trawl sector can erode another sector's total allocation, and to allow more flexibility to adjust incidental catch needs for each sector as these trawl fisheries change in the future.

Elimination of Pacific Cod Nonspecified Reserve

Currently, during the annual harvest specifications process, 15 percent of the BSAI TAC for each target species (except pollock and the hook-and-line and pot gear allocation for sablefish) and for the other species category is automatically placed in the nonspecified reserve as required at § 679.20(b)(1). Half of the nonspecified reserve (7.5 percent of TAC) for most species is then apportioned to the groundfish CDQ reserve. Historically, the half remaining in the reserve for Pacific cod, Atka mackerel, Pacific ocean perch, and several rockfish species is apportioned by NMFS to the non-CDQ TAC for their respective fisheries. This is done because the TAC for these fisheries is already fully

harvested; that is, U.S. fishing vessels have demonstrated the capacity to catch the full TAC allocations. NMFS uses the nonspecified reserve inseason to supplement the non-CDQ TAC for some species so that fishing operations can continue, or to account for catch in excess of allocated amounts.

Under this proposed rule, Pacific cod would be exempt from having 15 percent of the TAC placed in the nonspecified reserve. This deduction from Pacific cod TAC would no longer be needed under this proposed rule because a direct allocation to the CDQ reserve is specified. Additionally, the Pacific cod TAC is fully allocated among CDQ and non-CDQ harvesting sectors, and is fully harvested.

Reallocations of Pacific Cod Among Non-CDQ Sectors

During the last fishing season of the year, NMFS considers whether one or more non-CDQ sectors will be unlikely to use its remaining BSAI Pacific cod allocation. To obtain optimum yield from the BSAI Pacific cod fishery, NMFS reallocates these projected unused allocations to other sectors. In the case of the jig sector, reallocations are made seasonally. NMFS considers whether a particular sector is still operating on the fishing grounds, and thus capable of harvesting any quota that is reallocated from another sector, when making reallocation decisions. Current regulations at § 679.20(a)(7)(ii) outline the following system for reallocating projected unused allocations:

- Projected unused portions of a jig sector seasonal allowance are reallocated to the <60 ft LOA fixed gear CV sector.
- Projected unused hook-and-line CV sector and <60 ft LOA fixed gear sector allocations are reallocated to the hook-and-line CP sector.
- Projected unused trawl gear sector allocations are considered for reallocation to the other trawl gear sector (e.g., trawl CV to trawl CP) prior to being reallocated to another gear type (e.g. trawl gear to fixed gear).
- Remaining projected unused trawl allocations are reallocated 95 percent to the hook-and-line CP sector; 4.1 percent to the pot CV sector; and 0.9 percent to the pot CP sector.

Although the intent of the Council under Amendment 85 is to revise sector allocations to better reflect actual catch history and thus reduce the frequency and amount of inseason reallocations, the Council and the public noted that some reallocations are likely to continue. Under this proposed rule, if, during a fishing year, the Regional Administrator determines that a sector would be unable to harvest the entire amount of Pacific cod allocated to that sector, NMFS would reallocate the projected unused amount of Pacific cod to other sectors. Reallocation decisions would be based in part on the hierarchy described below (in the sequence described), but also would take into account the capability of a sector to harvest the reallocated amount of Pacific cod. In general, under the proposed changes, projected unused allocations in any sector delivering inshore, i.e., CV sectors, would be reallocated primarily to other inshore sectors before being reallocated to any offshore, i.e., CP, sector, and, secondarily, within a gear type before being reallocated to another gear type.

Under this proposed rule, the Regional Administrator would reallocate any projected unharvested amounts of Pacific cod TAC from any CV sector, first to the jig sector or to the <60 ft LOA fixed gear CV sector, or to both; then to the ≥60 ft LOA fixed gear CV sectors; and then to the trawl CV sector. Any jig, <60 ft LOA fixed gear, or ≥60 ft LOA hook-and-line CV sector allocation that is unlikely to be harvested through this hierarchy would be reallocated to the hook-and-line CP sector. Any ≥60 ft LOA pot CV sector allocation that is unlikely to be harvested through this hierarchy will be reallocated to the pot CP sector as described below. Any trawl CV sector allocation that is unlikely to be harvested through this hierarchy will be reallocated to the other trawl sectors as described below.

For any trawl CP sector, the Regional Administrator would reallocate any projected unharvested amounts of its Pacific cod TAC allocation to the other trawl CP sector and/or the trawl CV sector before unharvested amounts are reallocated to certain fixed gear sectors. Any reallocation to fixed gear sectors would be proportional to the proposed allocations for three fixed gear sectors as follows: 83.1 percent to the hook-and-line CP sector, 2.6 percent to the pot CP sector, and 14.3 percent to the ≥60 ft LOA pot CV sector.

Any projected unharvested amounts of Pacific cod TAC allocated to the pot CP sector or to the ≥60 ft LOA pot CV sector would be reallocated by the Regional Administrator to the other pot gear sector before it would be reallocated to the hook-and-line CP sector. Current Federal regulations do not explicitly mandate reallocation of Pacific cod between pot gear sectors, but do allow NMFS to reallocate unused pot CP or ≥60 ft LOA pot CV allocations to the other pot gear sector before it is reallocated to other gear sectors. This action proposes to make pot gear sector reallocations explicit in regulation. This approach is consistent with the way the trawl sectors are addressed by the Council in this proposed rule. That is, Pacific cod would be reallocated within the same gear type before being reallocated to a different gear type.

Two primary differences exist between the status quo and the reallocation hierarchy proposed under Amendment 85. The first difference is that NMFS would be required to consider reallocating within the inshore sectors before reallocating projected unused Pacific cod allocations from the inshore to the offshore sectors. This approach is consistent with the Council's decision to increase the harvest opportunities for the fleets delivering shoreside, which include some of the small boat sectors. The second difference is the relative reduction in the hook-and-line CP sector's share of the trawl reallocations compared to the status quo. The status quo is based on each of the specified fixed gear sector's share of the actual harvest of trawl reallocations between 1996 and 1998. However, under Amendment 85, the Council chose to base the reallocations on each specified fixed gear sector's share of the overall BSAI Pacific cod non-CDQ TAC. Changing the reallocations to be proportional to the new fixed gear allocations is consistent with the problem statement, which states that allocations should be adjusted to better reflect historic use by sector. Because the new fixed gear allocations are based on catch history, with consideration for socioeconomic and community factors, basing reallocations on the same relative allocation among the specified fixed gear sectors is consistent with this objective.

Note that, like the status quo, the Council only intends that NMFS consider the hierarchy proposed by this rule when making reallocation decisions. NMFS would take into account the intent of the rollover hierarchy, and the likelihood of a sector's capability to harvest reallocated quota prior to making the reallocation. The Council noted that it is important that NMFS retain this flexibility to determine how to reallocate projected unused sector allocations in order to avoid intermittent starting and stopping of the fishery and to reduce the risk of foregone harvest.

Seasonal Allowances

Under existing regulations, Pacific cod allocations are further apportioned by season for most gear sectors to

protect prey availability for Steller sea lions (SSLs). Appendix A of the November 2001 Supplemental Environmental Impact Statement on SSL protection measures included the biological opinion on the effects of the pollock, Pacific cod, and Atka mackerel fisheries on SSLs and their designated critical habitat (2001 Biological Opinion). The 2001 Biological Opinion requires temporal dispersion of harvest so that the overall BSAI Pacific cod fishery is limited to seasonal percentages of TAC of no more than 70 percent between January 1 and June 10, and 30 percent between June 10 and December 31.

Each sector's allocation is currently apportioned seasonally to meet this requirement (§ 679.20(a)(7)(iii)(A)). Currently, the trawl sectors receive 37.6 percent of the non-CDQ TAC in the first half of the year (28.2 percent in the A season and 9.4 percent in the B season) which is 80 percent of their allocations; the fixed gear sectors receive 30.2 percent of the non-CDQ TAC in the first half of the year (60 percent of their allocations), and the jig sector receives about 1.2 percent (about 60 percent of its allocation). In total, about 69 percent of the total non-CDQ BSAI Pacific cod TAC is allowed to be harvested in the first half of the year. The <60 ft LOA fixed gear sector, which does not have its Pacific cod allocation apportioned by season, is excluded from this limitation and this exclusion would be maintained under Amendment 85 and this proposed rule.

Because this proposed rule modifies non-CDQ sector allocations to decrease the amount of rollovers, if the same seasonal allowances were maintained, the fixed gear sectors could potentially harvest more Pacific cod in the first half of the year due to their overall increased share of the non-CDQ Pacific cod TAC. Similarly, the trawl sectors would have less of their Pacific cod allocation available in the first half of the year. However, the intent of the Council is to reflect the current fishery, to the extent possible, by maintaining each sector's current percentage of the non-CDQ TAC allocated in the first half of the year when fishing for Pacific cod is more advantageous.

Therefore, to maintain the overall 70/30 seasonal split for all gear types combined and to maintain to the extent possible the current percentage of the Pacific cod TAC harvested in the first half of the year by the non-CDQ sectors, the proposed rule adjusts the seasonal allowances for each sector in response to the changes in sector allocations. The Council intent for this approach is to mirror the fishery as it is conducted today, and as it was evaluated in the 2001 Biological Opinion.

As proposed by the Council, the current percentage of the non-CDQ Pacific cod TAC harvested in the A season by trawl gear and by fixed gear would be maintained. The overall trawl allocation reduction would be applied first to the trawl C season, and any remaining reductions would be applied to the trawl B season. The increase in the overall fixed gear allocation would be applied only to its B season.

Under this proposed rule, the jig sector seasonal allowance would change from 40–20–40 to 60–20–20. The jig sector has not successfully harvested its 40 percent allowance in the C season. Therefore, this change would allow for more harvest in the first season. Additionally, much of the jig sector's C season Pacific cod allocation is not available for reallocation to the <60 ft LOA fixed gear sector because this other small boat sector is no longer on the fishing grounds later in the year. Public testimony from the jig sector and coastal community representatives supported the proposed change in the jig gear seasonal allowance to 60–20–20. The Council took this testimony into consideration in making its decision to change the seasonal allowance for the jig sector to 60–20–20. Additionally, with a 60 percent seasonal allowance in the A season, the Council noted that any reallocated amounts of Pacific cod from the jig sector would roll over to the <60 ft LOA fixed gear sector when that small boat sector is still on the fishing grounds. This reallocation from the jig sector is also intended by the Council to help offset the proposed restriction that would prohibit the <60 ft LOA fixed gear sector from fishing off the allocations for the ≥60 ft LOA pot CVs and the ≥60 ft LOA hook-and-line CVs.

Currently, the Pacific cod CDQ reserve is not apportioned by gear type. Therefore, the Pacific cod CDQ reserve cannot be apportioned seasonally by gear type at the beginning of the fishing year, as is done for the non-CDQ sectors. These seasonal allowances, currently specified at § 679.20(a)(7)(iii)(A), apply to both the CDQ and non-CDQ sectors. The Council did not change the approach for managing the seasonal catch of Pacific cod CDQ under Amendment 85 and the seasonal allowances for the CDQ Program would remain unchanged from the current percentages in this proposed rule (see Table 5). Because nearly all of the Pacific cod CDQ allocation is harvested with hook-and-line gear, the Council further assumed the seasonal apportionment of the Pacific cod CDQ allocation would continue to be 60 percent in the A season and 40 percent in the B season. Additionally, the Magnuson-Stevens Act does not address the issue of seasonal allowances for the CDQ Program. Therefore, the proposed rule maintains the current seasonal allowances under the CDQ Program.

Under this proposed rule, the CDQ groups must continue to manage their fisheries to keep their catch of Pacific cod within the seasonal allowances specified for the gear types they use to catch Pacific cod to comply with SSL protection measures. The proposed rule also would add a prohibition to § 679.7(d) to clarify that the CDQ groups would be prohibited from exceeding the seasonal allowances of Pacific cod that are appropriate for the gear types that they use to catch Pacific cod CDQ.

The proposed BSAI Pacific cod sector allowances for each sector, including CDQ, by season, as those seasons are specified under § 679.23(e)(5), are listed in Table 5.

TABLE 5. SEASONAL ALLOWANCES

Gear type	A season		B season		C season	
	Current	A. 85	Current	A. 85	Current	A. 85
CDQ trawl	60%	60%	20%	20%	20%	20%
Non-CDQ trawl CV	70%	74%	10%	11%	20%	15%
Non-CDQ trawl CP	50%	75%	30%	25%	20%	0%

TABLE 5. SEASONAL ALLOWANCES—Continued

Gear type	A season		B season		C season	
	Current	A. 85	Current	A. 85	Current	A. 85
CDQ hook-and-line processors, hook-and-line ≥60 ft LOA, pot gear vessels ≥60 ft LOA	60%	60%	40%	40%	no C season	
Non-CDQ hook-and-line processors, hook-and-line ≥60 ft LOA, pot gear vessels ≥60 ft LOA	60%	51%	40%	49%	no C season	
CDQ jig vessels	40%	40%	20%	20%	40%	40%
Non-CDQ jig vessels	40%	60%	20%	20%	40%	20%
All other nontrawl vessels	no seasonal allowance		no seasonal allowance		no seasonal allowance	
Total non-CDQ current percentage	1/1 - 6/10 = 69%		6/10 - 12/31 = 31%			
Total non-CDQ proposed percentage	1/1 - 6/10 = 68%		6/10 - 12/31 = 32%			
Total CDQ and non-CDQ proposed percentage	1/1 - 6/10 = 67%		6/10 - 12/31 = 33%			

To calculate the new seasonal allowance in the A season for a non-CDQ sector, a simple ratio is used. A sector's seasonal percentage of the non-CDQ Pacific cod TAC is calculated by multiplying the current allocation (CA) by the current seasonal allowance (CSA). For a sector's seasonal percentage of the non-CDQ Pacific cod TAC to remain the same under Amendment 85, CA multiplied by CSA would equal the new allocation (NA) multiplied by the new seasonal allowance (NSA) (CA x CSA = NA x NSA). Solving the equation for NSA (which is unknown) yields NSA = (CA x CSA)/NA.

The calculation of seasonal allowances for the trawl CP sectors is the most complicated, and is provided as an example. The current allocation for trawl CPs is 23.5 percent of the BSAI non-CDQ Pacific cod TAC. Multiplying the current allocation by the current A season allowance to the trawl CPs of 50 percent, equals 11.8 percent. Dividing 11.8 percent by the combined new allocation to the trawl CP sectors of 15.7 percent, yields a new A season allowance of 75 percent for the trawl CP sectors. The current seasonal percentages for the trawl CP sectors of the BSAI non-CDQ Pacific cod TAC is 11.8 percent in the A season, 7.1 percent in the B season and 4.7 percent in the C season. The overall allocation to the trawl CP sectors would decrease by 7.8 percent of the non-CDQ Pacific cod TAC under the proposed rule. As proposed by the Council, these decreases would first be applied to the C season, resulting in a zero percent allowance in the C season, and then to the B season. This would result in the remaining 25 percent of the overall allocation to the trawl CP sectors being assigned to the trawl B season. The 7.8 percent decrease minus 4.7 percent from the C season leaves 3.1 percent which is subtracted from the B season allowance of 7.1 percent. The resulting 4.0 percent is divided by the overall allocation of 15.7 percent which equals 25 percent.

Relative to current seasonal apportionments, less of the BSAI Pacific cod non-CDQ TAC would be allowed to be harvested in the first half of the year because of the proposed reductions in the trawl CP and jig sector allocations. This was determined by multiplying the proposed allocations by the seasonal allowances. The amount of the BSAI Pacific cod non-CDQ TAC that would be allowed to be harvested in the first half of the year (assuming the entire 2 percent allocation to the <60 ft LOA fixed gear sector is harvested in the first half of the year, to be the most conservative) would be 68 percent, which is less than the total current seasonal allowance of 69 percent of the TAC.

Using a CDQ reserve for Pacific cod equal to 10.7 percent of the BSAI Pacific cod TAC, and using the current CDQ general seasonal allowances of 60 and 40 percent in the A and B seasons, respectively, the maximum A season harvest by all sectors (including the total allocation to the <60 ft LOA fixed gear sector allocation in the first half of the year) would be equal to about 67 percent of the BSAI Pacific cod TAC. This level is still below the SSL seasonal harvest limit of 70 percent of the TAC. Trawl gear is the only CDQ gear type that does not have a 60/40 split. However, in 2005 the CDQ groups harvested a total of 273 mt of Pacific cod with trawl gear, which equals 0.1 percent of the BSAI Pacific cod TAC. Therefore, the incidental catch of Pacific cod by CDQ trawl vessels is expected to have a negligible impact on the harvest of Pacific cod by season under this proposed rule.

Reallocation of Seasonal Allowances

Any unused portion of a seasonal allowance of Pacific cod from any sector other than the jig sector, would continue to be reallocated to that sector's remaining seasons during the current fishing year. The Regional Administrator would continue to reallocate any projected unused portion of a seasonal allowance of Pacific cod from the jig sector to the <60 ft LOA fixed gear sector. Under this proposed rule, a projected unused portion of the seasonal allowance for the jig sector C season would be reallocated on or about September 1 of each year, if possible. The intent of the Council under this provision is to provide the last rollover from the jig sector when the <60 ft LOA fixed gear sector would still be on the fishing grounds.

Prohibited Species Catch

Prohibited species catch (PSC) regulations pertain to certain species caught in the process of fishing for groundfish that must be accounted for but cannot be retained, except for halibut and salmon retained under the donation program at § 679.26. Regulations at § 679.21 establish PSC limits for Pacific halibut, three species of crab, salmon, and herring in the BSAI trawl groundfish fisheries, and a separate Pacific halibut PSC limit for nontrawl gear. These regulations also establish allocations of each PSC limit between the CDQ and non-CDQ fisheries and a process for apportioning PSC among non-CDQ fisheries. The halibut PSC limit is set in regulation

and is not tied to population assessment for the halibut resource. The limits for the other PSC species are set to fluctuate as resource abundance fluctuates. Crab PSC limits are tied to PSC limitation zones for red king, bairdi (*Chionoecetes bairdi*), and opilio (*C. opilio*) crab, whereas the PSC limits for the other species are for the entire BSAI.

Initially, 7.5 percent of each PSC limit, with the exception of herring, is set aside for the CDQ Program with the remainder of each PSC limit apportioned among specified fisheries as PSC allowances during the annual harvest specifications process. These PSC allowances are intended to optimize total groundfish harvest under established PSC limits, taking into consideration the anticipated amounts of incidental catch of prohibited species in each fishery. Depending on the prohibited species, reaching a PSC allowance results in closure of an area or a groundfish directed fishery, even if some of the groundfish TAC for that fishery remains unharvested.

Under this proposed action, the Council recommended that the Pacific cod trawl fishery crab and halibut mortality PSC allowances be further apportioned among the trawl sectors. Similarly, the Pacific cod nontrawl halibut PSC allowances would be further apportioned between two hook-and-line sectors. Pot and jig sectors currently are exempt from halibut PSC limits due to very low bycatch rates in these sectors. The proposed rule would not change the process for establishing the annual PSC allowances to the CDQ Program and to the overall Pacific cod trawl and hook-and-line sectors as part of the annual harvest specifications.

Trawl Sector Halibut and Crab PSC Apportionments

Currently, the total amount of halibut PSC mortality for trawl gear in the non-CDQ fisheries of 3,400 mt is apportioned in the annual harvest specifications process among the four following fisheries: (1) Pacific cod, (2) yellowfin sole, (3) rock sole/other flatfish/flathead sole, and (4) pollock/Atka mackerel/other fisheries. The current process to apportion the halibut PSC mortality for trawl gear among the non-CDQ fisheries would continue under the proposed action. Generally, about 1,400 mt of halibut PSC mortality is apportioned to the BSAI Pacific cod trawl fishery, but this amount and actual use can vary annually.

As stated previously, the crab PSC limits fluctuate as resource abundance fluctuates, and limits are set by zone. The PSC limit (expressed in numbers of crab) in 2006 for zone 1 red king crab is 182,225 crab for all trawl fisheries, with the Pacific cod trawl fisheries being allocated 26,563 crab of that total. The PSC limit in 2006 for zone 1 bairdi crab is 906,500 crab for all BSAI trawl fisheries, with the Pacific cod trawl fisheries being allocated 183,112 crab of that total. The 2006 PSC limit for zone 2 bairdi crab is 2,747,250 crab for all BSAI trawl fisheries, with the Pacific cod trawl fisheries being allocated a relatively small proportion, 324,176 crab, of that total. The current PSC limit for opilio within the *C. opilio* bycatch limitation zone (COBLZ) is 4,494,569 crab for all BSAI trawl fisheries, with the Pacific cod trawl fisheries being allocated a relatively small proportion, 139,331 crab, of that total.

In recent years, the trawl CV and trawl CP sectors' directed Pacific cod fisheries have closed most often due to reaching the seasonal TAC, to avoid exceeding the specified halibut PSC mortality limit, or because a fishing season has ended. Reaching a crab PSC limit results in closure of a specific area to directed fishing. Crab PSC typically does not limit the BSAI Pacific cod trawl fisheries, although occasional crab PSC closures have occurred in the past.

The Council recommended that the amount of halibut and crab PSC mortality that would be apportioned to each Pacific cod trawl sector under this action be proportional to each sector's percentage of the Pacific cod harvested in the Pacific cod target fishery from 1999 through 2003, including the Pacific cod retained for meal production. Accordingly, the annual PSC allowance of halibut and crab specified for the Pacific cod trawl fishery category would be divided among the trawl sectors as follows: 70.7 percent for trawl CVs; 4.4 percent for AFA trawl CPs; and 24.9 percent for non-AFA trawl CPs. Because the AFA and non-AFA trawl CVs would share a Pacific cod allocation, the Council decided that this sector also would receive combined PSC allowances of halibut and crab mortality.

Halibut PSC mortality is attributed to a fishery based upon what the target fishery is. A significant amount of Pacific cod is taken incidentally in trawl fisheries for species other than Pacific cod. However, the halibut PSC mortality associated with that incidental Pacific cod harvest is attributed to a fishery other than the Pacific cod trawl fishery.

The Council's intent for the proposed PSC apportionments among the trawl gear sectors that target Pacific cod was to allow each sector to better plan its operations by being able to manage its PSC use during the fishing year without its PSC being eroded by another sector. However, based on the directed Pacific cod trawl fishery's historical halibut and crab PSC use, the proposed percentage of the total halibut and crab PSC allowances to the Pacific cod trawl CV sector would increase disproportionately relative to the trawl CP sectors as a whole. This is because both trawl CP sectors caught a relatively high percentage of their Pacific cod while targeting on species other than Pacific cod. The trawl CV sector caught 6.9 percent of its Pacific cod in other fisheries, while the non-AFA CP sector caught 45.9 percent of its Pacific cod in other trawl fisheries, and the AFA CP sector caught 44.2 percent of its Pacific cod in other trawl fisheries. The Council noted that the halibut and crab PSC allowances for the trawl fisheries that harvest Pacific cod incidentally would be apportioned under other trawl fishery categories based on the target groundfish species.

Table 6 projects the amount of halibut and crab PSC mortality that would be apportioned to each trawl sector under Amendment 85 using the 2006 PSC apportionments. Table 7 shows each sector's average historical use in the directed Pacific cod fishery from 1995–2003 for halibut and from 1995–2002 for crab. Under the proposed rule, each sector would be limited to using its PSC allowances in its directed Pacific cod fishery.

TABLE 6. PROJECTED PACIFIC COD TRAWL PSC ALLOWANCES FOR EACH TRAWL SECTOR UNDER AMENDMENT 85 USING 2006 TOTAL PACIFIC COD TRAWL FISHERY GROUP PSC APPORTIONMENTS

Sector	Halibut PSC allowance (mt halibut mortality)	Red king crab PSC allowance (# of crab)	Opilio PSC allowance (# of crab)	Zone 1 bairdi PSC allowance (# of crab)	Zone 2 bairdi PSC allowance (# of crab)
AFA Trawl CP	63	1,169	6,131	8,057	14,264

TABLE 6. PROJECTED PACIFIC COD TRAWL PSC ALLOWANCES FOR EACH TRAWL SECTOR UNDER AMENDMENT 85 USING 2006 TOTAL PACIFIC COD TRAWL FISHERY GROUP PSC APPORTIONMENTS—Continued

Sector	Halibut PSC allowance (mt halibut mortality)	Red king crab PSC allowance (# of crab)	Opilio PSC allowance (# of crab)	Zone 1 bairdi PSC allowance (# of crab)	Zone 2 bairdi PSC allowance (# of crab)
Non-AFA Trawl CP	357	6,614	34,693	45,595	80,720
Trawl CV	1,014	18,780	98,507	129,460	229,192
Total 2006 PSC for Pacific cod trawl fishery	1,434	26,563	139,331	183,112	324,176

TABLE 7. PACIFIC COD TRAWL PSC AVERAGE ANNUAL MORTALITY FOR EACH TRAWL SECTOR FROM 1995-2003 FOR HALIBUT AND FROM 1995-2002 FOR CRAB

Sector	Halibut (mt)	Red king crab (# of crab)	Opilio (# of crab)	Zone 1 bairdi (# of crab)	Zone 2 bairdi (# of crab)
AFA Trawl CP	21	166	189	469	1,685
Non-AFA Trawl CP	459	4,730	34,645	72,391	25,546
Trawl CV	737	1,114	6,768	59,810	19,376
Total	1,216	6,010	41,602	132,670	46,607

During its deliberation on adoption of Amendment 85, the Council understood and acknowledged that the potential impact of the percentage of Zone 1 bairdi crab PSC mortality apportioned to the non-AFA trawl CP sector could be constraining compared to historic use, but chose not to modify its decision. The Council determined that the amount of Zone 1 bairdi crab that would be apportioned to the non-AFA trawl CP sector would fall within the range of what this sector has caught historically. NMFS is concerned that the Council's recommendation for Amendment 85 would provide substantially less halibut and Zone 1 bairdi crab PSC mortality to support the non-AFA trawl CP sector Pacific cod fishery than this sector has used historically, and only about the average amount of opilio crab PSC mortality. Thus, the proposed PSC apportionments could limit this sector's directed fishery for Pacific cod. The non-AFA trawl CP sector is concerned that it may already have its directed fishery limited by its proposed Pacific cod allocation under Amendment 85 which is less than its more recent history. Similarly, NMFS is concerned that the trawl CV sector would have greater PSC allowances than it has used historically and that such increases in PSC would not be needed to support this sector's proposed allocation of Pacific cod, which is less than its average historical catch. NMFS also is concerned that setting individual PSC sector percentage allowances in regulations is more constraining to the trawl sector than the more flexible method used to distribute halibut PSC mortality among the nontrawl gear sectors during the annual harvest specifications process.

NMFS is seeking public comment regarding whether to continue with the status quo method of distributing the PSC allowance among the Pacific cod trawl sectors during the annual harvest specifications process, or to set individual PSC allowances for each trawl sector as proposed under Amendment 85 and this rule. NMFS notes that the Council has developed a separate amendment to the FMP, Amendment 80, to further restructure the trawl PSC apportionments among fishery categories. Amendment 80 would allocate specified groundfish species and PSC to the non-AFA trawl CP sector. That proposed action would supercede the trawl PSC allocations under Amendment 85, but has yet to be forwarded to the Secretary for review and approval.

Nontrawl Sector Halibut PSC Apportionment

The total amount of nontrawl halibut PSC for the non-CDQ fisheries currently is 833 mt of mortality. This amount is typically apportioned between the Pacific cod hook-and-line fishery and other nontrawl fisheries during the annual harvest specifications process. Generally, 775 mt is apportioned to the hook-and-line Pacific cod fishery and 58 mt to other nontrawl groundfish fisheries (primarily the Greenland turbot target fishery). Between 1995 and 2003, the halibut mortality in the hook-and-line CP fishery averaged 684.9 mt per year, and the hook-and-line CV averaged 5.9 mt per year, for a total of about 691 mt per year. This proposed rule would not change the total amount of halibut PSC mortality allocated to the hook-and-line Pacific cod sectors.

Currently, the annual Pacific cod hook-and-line halibut PSC allowance is apportioned among three seasons: 320 mt (January 1 to June 10); 0 mt (June 10 to August 15); and 455 mt (August 15 to December 31). If a seasonal allowance of halibut PSC mortality is reached, directed fishing for BSAI Pacific cod by all vessels using hook-and-line gear is closed for the remainder of the season. A seasonal halibut PSC allowance in the second season has not been specified in recent years because halibut bycatch rates during that season are relatively high. Thus, a hook-and-line directed fishery for Pacific cod has not operated in the summer months.

The hook-and-line CP sector generally supports not providing a halibut PSC limit in the second season, because fishing when the halibut bycatch rates are high could risk closing the directed Pacific cod fishery prior to the allocation being fully harvested. However, the hook-and-line CV sector, which also is constrained by the same PSC limit, is comprised of smaller vessels with slower catch rates and a relatively small Pacific cod allocation compared to the hook-and-line CP sector. While the PSC limit has not been

constraining to these sectors in the recent past, the Council is of the opinion that the hook-and-line CV sector might benefit from a halibut PSC limit separate from the hook-and-line CP sector, and potentially, the ability to fish for Pacific cod in the summer months when the weather is more favorable for smaller vessels. This would be consistent with the Council's concept of establishing separate Pacific cod allocations and separate PSC limits for each trawl and nontrawl sector, such that no sector can impede another sector's Pacific cod fishery.

Therefore, this proposed rule would divide the halibut PSC allowance annually specified for the hook-and-line Pacific cod fishery between two fishery sectors: the hook-and-line CP sector and the hook-and-line CV sector (CVs ≥60 ft LOA and CVs <60 ft LOA combined). The nontrawl halibut PSC allowance apportioned to these fishery sectors would be established annually during the harvest specifications process. The apportionment would be based on each sector's proportional share of the anticipated bycatch mortality of halibut during a fishing year, and the need to optimize the amount of total groundfish harvested under the nontrawl halibut PSC mortality limit.

The Council's recommendation was to not fix the amount of halibut PSC apportioned to the hook-and-line BSAI Pacific cod fishery categories in regulation, but to continue making that determination in the annual harvest specifications process. The Council deliberations on this issue indicated that a halibut PSC allowance of 10 mt to the Pacific cod hook-and-line CV sector might be a starting point to guide the specifications process in this determination. The Council's intent was to allow NMFS flexibility to adjust these amounts if necessary in the future, rather than fix the amounts in Federal regulations. Under this action, NMFS could provide varying amounts of halibut PSC by season to each sector, tailoring PSC limits to suit the needs and timing of each sector.

Pacific Cod and PSC Sideboard Limits for AFA Sectors

Sideboards are harvesting and processing restrictions that were placed on AFA CVs and AFA CPs operating in the BSAI pollock fishery. The basis for the sideboard limits is described in detail in the final rule implementing the AFA that was published December 30, 2002 (67 FR 79692). To protect the interests of other fishermen and processors that did not benefit directly from the AFA, these sideboards restrict the ability of AFA vessels to participate in directed fisheries for non-pollock groundfish species. For Pacific cod, these sideboards are based on the total amount of Pacific cod retained by the different AFA vessel sectors as a percentage of the non-CDQ TAC in 1997. Currently, the AFA trawl CP sector has a sideboard limit of 6.1 percent of the non-CDQ Pacific cod TAC, and the non-exempt AFA trawl CV sector (see the AFA final rule for an explanation of the non-exempt vessels) has a sideboard limit of 20.2 percent of the non-CDQ Pacific cod TAC.

This action proposes to remove § 679.64(a)(1)(ii) that specifies the sideboard limits of BSAI Pacific cod for the AFA trawl CPs. The establishment of a separate Pacific cod allocation to this sector under § 679.20(a)(7) negates the need for the BSAI Pacific cod sideboard which protects the historic share of the non-AFA trawl CP sector from being eroded by the AFA CP vessels. For the same reason, BSAI Pacific cod would be added to the list of exceptions to the groundfish species or species groups for which sideboard harvest limits would be calculated for AFA listed CPs in the introductory text under § 679.64(a)(1).

The halibut and crab PSC sideboard limits for both AFA sectors would be maintained as set out in § 679.64(a) and (b). These PSC sideboard limits would continue to be managed through directed fishing closures in the groundfish fisheries for which the PSC sideboard limit applies. The PSC sideboards for the AFA trawl CP sector would not be increased by this proposed rule, but a portion of the PSC sideboards would be set aside as an allocation for use in this sector's Pacific cod directed fishery. To continue protection of the non-AFA CVs, the Council proposed under Amendment 85 to continue the Pacific cod sideboards and the halibut and crab PSC sideboards for AFA CVs.

Other Revisions

Four definitions for CPs would be modified or added to the regulations in accordance with the Consolidated Appropriations Act, 2005, as noted earlier. This proposed rule includes a revised definition for AFA trawl CP and new definitions for hook-and-line CP, non-AFA trawl CP, and pot CP, consistent with the provisions of the Act. The proposed definition for hook-and-line CP is substantively consistent with the Act's definition for longline CP subsector.

The definition for ''CDQ reserve'' would be revised to change and update terms and to generalize the cross reference. Under current regulations, ''CDQ reserve'' is defined ''as a percentage of each groundfish TAC apportioned under § 679.20(b)(1)(iii), a percentage of a catch limit for halibut, or a percentage of a guideline harvest level for crab that has been set aside for purposes of the CDQ Program.'' The proposed definition would change the term ''percentage,'' where it appears, to ''amount'' to more accurately reflect that the term ''CDQ reserve'' is used elsewhere in 50 CFR part 679 to refer to the annual amounts of the allocations to the CDQ Program by weight for groundfish and halibut, and by numbers for crab. The term ''guideline harvest level'' for crab would be replaced with the term ''TAC'' to be consistent with the term used for annual crab quotas in 50 CFR part 680. The cross reference would be generalized because this is an overall definition of CDQ Program apportionments for various species allocated to the program. Regulations at § 679.20(b)(1)(iii) discuss the establishment of the CDQ reserve from the nonspecified reserve. Amendment 85 would remove Pacific cod from this process and direct that Pacific cod CDQ be allocated directly from the Pacific cod TAC, similar to the way that pollock and sablefish are allocated to the CDQ reserve. Thus, the paragraph cited is no longer an applicable reference for the CDQ reserve for pollock, sablefish, or Pacific cod. Stepping back the reference citation in the current definition from ''§ 679.20(b)(1)(iii)'' to the more general level of ''§ 679.20'' would include all the paragraphs that allocate groundfish to the CDQ reserve.

The prohibition at § 679.7(d)(5) would be revised to remove the term ''crab PSQ.'' The red king, bairdi, and opilio crab PSQs are managed with area closures under the prohibitions at § 679.7(d)(6), (d)(7), and (d)(8) and should not also have been included in the prohibition at § 679.7(d)(5).

The introductory text of § 679.20 would be revised to clarify that this section applies to vessels engaged in directed fishing for groundfish in the Gulf of Alaska (GOA) or the BSAI. Current text ambiguously states ''GOA and BSAI,'' which could be interpreted as meaning that the sections applies only to vessels that fish in both areas. However, vessels directed fishing for groundfish in either ''the GOA or the BSAI'' are affected by the regulations in this section.

The information in § 679.21(e)(1)(i) and (e)(2)(ii), concerning the reserves in the BSAI for the CDQ Program, would be moved to § 679.21(e)(3)(i)(A) and (e)(4)(i)(A) respectively. This regulatory text would be moved from the paragraphs allocating PSC by species, to the more appropriate location under the

paragraphs making PSC apportionments to the various fishery categories. The regulatory text from § 679.21(e)(2)(i) would become the new regulatory text for § 679.21(e)(2).

This proposed rule would correct a typographical error in newly redesignated § 679.21(e)(1)(i), which references red king crab, by revising the reference from § 679.21(e)(1)(iii), which applies to tanner crab, to the newly redesignated § 679.21(e)(1)(i), which applies to red king crab.

The proposed rule would revise the heading of the newly redesignated paragraph at § 679.21(e)(2)(vi) from ''Chinook salmon'' to ''BS Chinook salmon.'' This revision would clarify that only BS Chinook salmon is the subject of this paragraph and would better correlate with the heading of the newly redesignated paragraph at § 679.21(e)(2)(viii) that is ''AI Chinook salmon.''

For purposes of apportioning the hook-and-line halibut PSC limit among sectors, definitions would be added for the new Pacific cod hook-and-line fishery categories at § 679.21(e)(4)(ii)(A) and (e)(4)(ii)(B). ''Nontrawl fishery categories'' would be revised to replace ''Pacific cod hook-and-line fishery'' with ''Pacific cod hook-and-line catcher vessel fishery'' and ''Pacific cod hook-and-line catcher/processor fishery'' to complement the previously noted division of this category. The regulations at § 679.21(e)(4)(ii)(C) through (e)(4)(ii)(E) would be unchanged except for their redesignations due to adding a category for the Pacific cod hook-and-line CP fishery. The introductory text at § 679.21(e)(4)(ii) would remain unchanged.

In § 679.23, paragraphs (e)(6) and (e)(7), applicable through December 31, 2002, would be removed because they are no longer in effect.

This proposed rule would correct a typographical error at § 679.32(b), which references the halibut PSC limit for vessels using pot or jig gear, by revising the reference in the paragraph from § 679.21(e)(5), which applies to seasonal apportionments of bycatch allowances, to § 679.21(e)(4), which applies to nontrawl halibut PSC apportionment.

This proposed rule would correct a typographical error at § 679.50(c)(1)(iii), which references the chum salmon savings area, by revising the reference in the paragraph from § 679.21(e)(7)(vi), which applies to Pacific herring, to § 679.21(e)(7)(vii), which applies to chum salmon.

Classification

At this time, NMFS has not determined that the FMP amendment that this rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An IRFA was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, the reasons why it is being considered, and a statement of the objectives of, and the legal basis for, this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble. A summary of the analysis follows. A copy of this analysis is available from NMFS (see **ADDRESSES**).

The directly regulated entities are the commercial fishing entities operating vessels that participate in the BSAI Pacific cod directed fisheries and the six CDQ groups. Of the 310 vessels participating in 2003, 169 vessels are estimated to be small entities directly regulated by the proposed action, as detailed below.

For purposes of an IRFA, the Small Business Administration (SBA) has established that a business involved in fish harvesting is a small business if it is independently owned and operated and not dominant in its field of operation (including its affiliates) and if it has combined annual gross receipts not in excess of $4.0 million for all its affiliated operations worldwide. A seafood processor is a small business if it is independently owned and operated, not dominant in its field of operation, and employs 500 or fewer persons on a full-time, part-time, temporary, or other basis, at all its affiliated operations worldwide.

Because the SBA does not have a size criterion for businesses that are involved in both the harvesting and processing of seafood products, NMFS has in the past applied and continues to apply SBA's fish harvesting criterion for these businesses because CPs are first and foremost fish harvesting businesses. Therefore, a business involved in both the harvesting and processing of seafood products is a small business if it meets the $4.0 million criterion for fish harvesting operations. NMFS currently is reviewing its small entity size classification for all CPs in the United States. However, until new guidance is adopted, NMFS will continue to use the annual receipts standard for CPs. NMFS plans to issue new guidance in the near future.

This IRFA used the most recent year of data available to conduct this analysis (2003). As stated previously, the commercial entities directly regulated by the proposed action are divided into nine sectors for the purpose of (non-CDQ) BSAI Pacific cod allocations, and the CDQ allocation is considered a separate sector. A description of the participants in, and the eligibility requirements for, each non-CDQ sector is provided in detail above, as is a description of the CDQ sector.

Vessels that were considered large entities, for purposes of the IRFA, were those with individual annual gross receipts greater than $4.0 million, or those affiliated under owners of multiple vessels, contractual relationships, and/or affiliated through fishing cooperative membership (e.g., AFA) that, when combined with earnings from all such affiliated operations, had aggregate annual gross revenues greater than $4.0 million. Insufficient documentation of multiple and joint-ownership structures, contractual affiliations, interlocking agreements, etc., among vessels in the various fleets of interest, herein, exist with which to confidently estimate the number of directly regulated small (and large) entities. Recognizing this, the IRFA is understood to likely overestimate the actual number of directly regulated small entities subject to this action.

The majority of the CVs in all gear sectors can be considered small entities under a conservative application of the existing threshold criterion. In 2003, only the AFA trawl CVs were considered large entities, as they are known to be party to a harvest cooperative system. The remaining 138 CVs of all gear types appear to meet the criterion for a small entity, as applied by evaluating the 2003 gross revenue data on a per vessel basis. However, as just noted, little is known about the ownership structure of the vessels in the fleets. Thus, based on the best available data, the following vessels appear to meet the application of the criterion above for a small entity in 2003: 25 hook-and-line and pot CVs <60 ft LOA; 22 non-AFA trawl CVs; 15 jig CVs; 6 hook-and-line CVs ≥60 ft LOA; and 70 pot CVs ≥60 ft LOA.

In the CP sector, the available data indicate that fewer than half meet the threshold for a small entity, as applied by evaluating the 2003 gross revenue on

a per vessel basis. Thirty-one of the 81 participating vessels in 2003 had gross receipts not in excess of $4.0 million. Again, because little is known about the ownership structure of the vessels in the fleets, it is likely that the IRFA overestimates the number of small entities. Thus, based on the best available data, the following vessels meet the application of the criterion above for a small entity in 2003: 24 hook-and-line CPs; 4 non-AFA trawl CPs; and 3 pot CPs. In sum, of the 310 vessels participating in 2003, 169 vessels are estimated as small entities directly regulated by the proposed action.

The six CDQ groups participating in the CDQ Program are not-for-profit entities that are not dominant in the overall BSAI fishing industry. Thus, the six CDQ groups directly regulated by the proposed action would be considered small entities or ''small organizations'' under the RFA. Thus, under a conservative application of the SBA criterion and the best available data, the total number of small entities directly regulated by the proposed action is estimated as 175.

Within this universe of small entities impacts may accrue differentially; i.e., some small entities could be negatively affected and others positively affected. Therefore, the Council deliberately sought to provide considerable accommodation for the smallest of the small entities under this amendment. Thus, while the proposed action is distributional in nature, the overall impact to the smallest of the small entities is expected to be positive.

This regulation does not impose new record keeping or reporting requirements on the directly regulated small entities.

This proposed action does not duplicate, overlap, or conflict with other Federal rules.

The IRFA analyzed the ''no action'' alternative (Alternative 1) and the proposed action (Alternative 2). Each of these alternatives was comprised of the same set of eight components, or issues. Alternative 1 would continue the following: (1) the current overall gear allocations in the BSAI Pacific cod fishery that were established under Amendment 46 in 1997; (2) the current CDQ allocation of 7.5 percent of the BSAI Pacific cod TAC; and (3) the current apportionment of the fixed gear portion of the BSAI Pacific cod non-CDQ TAC established under Amendment 77 in 2004. Alternative 1 also would continue shared halibut and crab PSC allowances to the BSAI Pacific cod trawl fishery category, which would mean that halibut and crab PSC harvest by each trawl sector would accrue to the same PSC allowance. Similarly, Alternative 1 would continue a shared halibut PSC allowance to the BSAI hook-and-line Pacific cod fishery category.

Before the Council made its decisions for Amendment 85, thus forming the proposed action, it considered several options under each of the eight components. These many options are analyzed in the RIR. The combination of these options resulted in the evaluation of a multitude of potential alternatives. For example, Table 8 provides a summary of the component concerning sector allocations, including the range of potential allocations to each non–CDQ sector considered by the Council, the current sector allocations, and the selections made under the preferred alternative.

TABLE 8. PERCENT NON-CDQ SECTOR ALLOCATIONS BY ALTERNATIVE

Sectors	Current (alternative 1)	Range of allocations Council considered	Proposed action (alternative 2)
Jig	2.0	0.1 - 2.0	1.4
Hook-and-line/pot CV <60 ft LOA	0.7	0.1 - 2.0	2.0
Hook-and-line CV ≥60 ft LOA	0.2	0.1 - 0.4	0.2
Hook-and-line CP	40.8	45.8 - 50.3	48.7
Pot CV ≥60 ft (18.3 m) LOA	7.6	7.3 - 9.2	8.4
Pot CP	1.7	1.4 - 2.3	1.5
AFA trawl CP	23.5 (AFA CP sector subject to 6.1% sideboard)	0.9 - 3.7	2.3
Non AFA trawl CP		12.7 - 16.2	13.4
AFA trawl CV	23.5 (non-exempt AFA CV sector subject to 20.2% sideboard)	17.8 - 24.4	22.1
Non-AFA trawl CV		0.5 - 3.1	

Amendment 85 is thus one derivation of many possible options, reflecting an effort to balance the economic and social objectives for the action against the potential burden placed on directly regulated entities (especially those which are ''small''). One option was selected under each of the eight components to comprise its final preferred alternative. The preferred alternative is described in detail in the RIR.

Several measures are included in the proposed rule that would reduce impacts on small entities. A specific means to facilitate economic opportunity and stability for small entities participating in the Pacific cod fisheries would be to establish BSAI Pacific cod allocations for the smallest of the small entities (jig vessels and the <60 ft LOA hook-and-line and pot CVs) that represent a net increase over their actual catch history. This would provide for potential growth in those sectors. On average during 1995 to 2003, the combined harvest history by these sectors was about 0.5 percent of the retained BSAI Pacific cod harvest. However, in recent years it appears that the <60 ft LOA fixed gear CV sector has increased its participation in the BSAI

Pacific cod fishery and could benefit from additional quota, if it were made available. This specific accommodation for small entities is included in the proposed rule.

The BSAI Pacific cod fisheries are currently managed through a complex series of permits, gear and area endorsements, and licenses. Many are predicated on historical participation and/or performance thresholds (e.g., meeting or exceeding a specific threshold landing in a specific series of seasons, etc.). Many of these requirements result in extremely high entry costs and physical barriers for small vessels and entry level operations. To relieve these burdens and obstacles to participation, an important means of accommodating small entities can be ''exemptions'' from, for example, requirements to acquire some specific permits, and/or meeting historical catch and participation thresholds, extended to particularly vulnerable or disproportionately burdened classes of smaller vessels.

Recognizing the opportunity to facilitate and sustain small entity participation, the Council incorporated a number of exemptions for small entities in the action. The proposed rule would maintain the current reallocation process whereby any unused jig quota is first considered for reallocation to the <60 ft LOA fixed gear sector before being reallocated to any other sector. The proposed rule also would change the jig sector seasonal allowance such that 20 percent more of the jig allocation is allowed to be harvested in the first half of the year. Thus, more Pacific cod may potentially be harvested by the <60 ft LOA fixed gear sector earlier in the year, when the weather is preferable for this small boat sector. The proposed rule also would specify that the third trimester of the jig allocation, if it is to be reallocated, should be available to the <60 ft LOA fixed gear CV sector on or about September 1. The intent of this provision is to reallocate quota between the small boat CV sectors as early in the year as possible, in order for these sectors to have an opportunity to harvest the quota under better weather conditions.

The proposed action also would increase the BSAI Pacific cod allocation to the CDQ Program. The proposed rule would increase the Pacific cod CDQ allocation from 7.5 percent of the Pacific cod TAC to 10.7 percent, as mandated by the recent amendments to the Magnuson-Stevens Act. Similar to the status quo, this allocation would fund all of the directed and nontarget catch of Pacific cod taken in the CDQ fisheries.

A tradeoff would exist in terms of impacts on the small entities in the non-CDQ sectors whose allocations would be reduced (proportionally by 3.2 percent) by the increase to the CDQ Program. However, the proposed action represents a positive effect on the six small entities that comprise the CDQ groups in terms of potential revenues resulting from an increased allocation. This increase in royalty payments is estimated as approximately $1.1 million. Nonetheless, efforts to minimize the burden on the smallest of small entities, as discussed above, by exempting them from the most onerous permit and recency requirements, and by allocating Pacific cod TAC amounts in excess of their recent Pacific cod harvest levels, reflects a sincere effort to address the needs of these small entities.

In sum, many vessels in each sector directly regulated by the proposed action are small entities. Because this action is principally designed to reapportion access to the cod resource among current user groups, by definition, it represents tradeoffs (i.e., some small entities could be negatively affected, while others are positively affected). In addition, the six CDQ groups would receive an increased allocation under the proposed action.

List of Subjects in 50 CFR Part 679

Alaska, Fisheries, Recordkeeping and reporting requirements.

Dated: February 1, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 679 is proposed to be amended as follows:

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

1. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.*; 1540(f); 1801 *et seq.*; 1851 note; 3631 *et seq.*

2. In § 679.2, remove the definition for ''AFA catcher/processor'', revise the definition for ''CDQ reserve'', and add definitions for ''AFA trawl catcher/processor'', ''Hook-and-line catcher/processor'', ''Non-AFA trawl catcher/processor'', and ''Pot catcher/processor'' in alphabetical order to read as follows:

§ 679.2 Definitions.

* * * * *

AFA trawl catcher/processor means:

(1) For purposes of BS pollock and all BSAI groundfish fisheries other than Atka mackerel, flathead sole, Greenland turbot, Pacific cod, Pacific ocean perch, rock sole, and yellowfin sole, a catcher/processor that is permitted to harvest BS pollock under § 679.4(l)(2).

(2) For purposes of BSAI Atka mackerel, flathead sole, Greenland turbot, Pacific cod, Pacific ocean perch, rock sole, and yellowfin sole, a catcher/processor that is permitted to harvest BS pollock and that is listed under § 679.4(l)(2)(i).

* * * * *

CDQ reserve means the amount of each groundfish TAC apportioned under § 679.20, the amount of each catch limit for halibut, or the amount of TAC for crab that has been set aside for purposes of the CDQ Program.

* * * * *

Hook-and-line catcher/processor means a catcher/processor vessel that is named on a valid LLP license that is noninterim and transferable, or that is interim and subsequently becomes noninterim and transferable, and that is endorsed for Bering Sea or Aleutian Islands catcher/processor fishing activity, catcher/processor, Pacific cod, and hook-and-line gear.

* * * * *

Non-AFA trawl catcher/processor means, for purposes of BSAI Atka mackerel, flathead sole, Greenland turbot, Pacific cod, Pacific ocean perch, rock sole, and yellowfin sole, a catcher/processor vessel using trawl gear and that:

(1) Is not an AFA trawl catcher/processor listed under § 679.4(l)(2)(i);

(2) Is named on a valid LLP license that is endorsed for Bering Sea or Aleutian Islands trawl catcher/processor fishing activity; and

(3) Was used to harvest with trawl gear in the BSAI and process not less than a total of 150 mt of Atka mackerel, flathead sole, Greenland turbot, Pacific cod, Pacific ocean perch, rock sole, or yellowfin sole between January 1, 1997, and December 31, 2002.

* * * * *

Pot catcher/processor means a catcher/processor vessel that is named on a valid LLP license that is noninterim and transferable, or that is interim and subsequently becomes noninterim and transferable, and that is endorsed for Bering Sea or Aleutian Islands catcher/processor fishing activity, catcher/processor, Pacific cod, and pot gear.

* * * * *

3. In § 679.7, revise paragraph (d)(5) and add paragraph (d)(25) to read as follows:

§ 679.7 Prohibitions

* * * * *

(d) * * *

(5) For a CDQ group, exceed a CDQ or a halibut PSQ.

* * * * *

(25) For a CDQ group, exceed a seasonal allowance of Pacific cod under § 679.20(a)(7)(i)(B).

* * * * *

4. In § 679.20, remove paragraph (b)(1)(iv) and revise the section's introductory text and paragraph (a)(7) to read as follows:

§ 679.20 General limitations.

This section applies to vessels engaged in directed fishing for groundfish in the GOA or the BSAI.

(a) * * *

(7) *Pacific cod TAC, BSAI*—(i) *CDQ reserve and seasonal allowances.* (A) A total of 10.7 percent of the annual Pacific cod TAC will be allocated to the CDQ Program in the annual harvest specifications required under paragraph (c) of this section. The Pacific cod CDQ allocation will be deducted from the annual Pacific cod TAC before allocations to the non-CDQ sectors are made under paragraph (a)(7)(ii) of this section.

(B) The BSAI Pacific cod CDQ gear allowances by season, as those seasons are specified under § 679.23(e)(5), are as follows:

Gear Type	A season	B season	C season
(*1*) Trawl	60%	20%	20%
(*2*) Hook-and-line CP and hook-and-line CV ≥60 ft (18.3 m) LOA	60%	40%	no C season
(*3*) Jig	40%	20%	40%
(*4*) All other non-trawl gear	no seasonal allowance	no seasonal allowance	no seasonal allowance

(ii) *Non-CDQ allocations*—(A) *Sector allocations.* The remainder of the BSAI Pacific cod TAC after subtraction of the CDQ reserve for Pacific cod will be allocated to non-CDQ sectors as follows:

Sector	% Allocation
(*1*) Jig vessels	1.4
(*2*) Hook-and-line/pot CV <60 ft (18.3 m) LOA	2.0
(*3*) Hook-and-line CV ≥60 ft (18.3 m) LOA	0.2
(*4*) Hook-and-line CP	48.7
(*5*) Pot CV ≥60 ft (18.3 m) LOA	8.4
(*6*) Pot CP	1.5
(*7*) AFA trawl CP	2.3
(*8*) Non-AFA trawl CP	13.4
(*9*) Trawl CV	22.1

(B) *Incidental catch allowance.* During the annual harvest specifications process set forth at paragraph (c) of this section, the Regional Administrator will specify an amount of Pacific cod that NMFS estimates will be taken as incidental catch in directed fisheries for groundfish other than Pacific cod by the hook-and-line and pot gear sectors. This amount will be the incidental catch allowance and will be deducted from the aggregate portion of Pacific cod TAC annually allocated to the hook-and-line and pot gear sectors before the allocations under paragraph (a)(7)(ii)(A) of this section are made to these sectors.

(iii) *Reallocation among non-CDQ sectors.* If, during a fishing year, the Regional Administrator determines that a non-CDQ sector will be unable to harvest the entire amount of Pacific cod allocated to that sector under paragraph (a)(7)(ii)(A) of this section, the Regional Administrator will reallocate the projected unused amount of Pacific cod to other sectors through notification in the **Federal Register**. Any reallocation decision by the Regional Administrator will take into account the capability of a sector to harvest the reallocated amount of Pacific cod, and the following reallocation hierarchy:

(A) *Catcher vessel sectors.* The Regional Administrator will reallocate projected unharvested amounts of Pacific cod TAC from a catcher vessel sector as follows: first to the jig sector, or to the less than 60 ft (18.3 m) LOA hook-and-line or pot catcher vessel sector, or to both of these sectors; second, to the greater than or equal to 60 ft (18.3 m) LOA hook-and-line or to the greater than or equal to 60 ft (18.3 m) LOA pot catcher vessel sectors; and third to the trawl catcher vessel sector. If the Regional Administrator determines that a projected unharvested amount from the jig sector allocation, the less than 60 ft (18.3 m) LOA hook-and-line or pot catcher vessel sector allocation, or the greater than or equal to 60 ft (18.3 m) LOA hook-and-line catcher vessel sector allocation is unlikely to be harvested through this hierarchy, the Regional Administrator will reallocate that amount to the hook-and-line catcher/processor sector. If the Regional Administrator determines that a projected unharvested amount from a greater than or equal to 60 ft (18.3 m) LOA pot catcher vessel sector allocation is unlikely to be harvested through this hierarchy, the Regional Administrator will reallocate that amount to the pot catcher/processor sector in accordance with the hierarchy set forth in paragraph (a)(7)(iii)(C) of this section. If the Regional Administrator determines that a projected unharvested amount from a trawl catcher vessel sector allocation is unlikely to be harvested through this hierarchy, the Regional Administrator will reallocate that amount to the other trawl sectors in accordance with the hierarchy set forth in paragraph (a)(7)(iii)(B) of this section.

(B) *Trawl catcher/processor sectors.* The Regional Administrator will reallocate any projected unharvested amounts of Pacific cod TAC from a trawl sector (trawl catcher vessel, AFA trawl catcher/processor, and non-AFA trawl catcher/processor sectors) to other trawl sectors before unharvested amounts are reallocated and apportioned to specified gear sectors as follows:

(*1*) 83.1 percent to the hook-and-line catcher/processor sector,

(*2*) 2.6 percent to the pot catcher/processor sector, and

(*3*) 14.3 percent to the greater than or equal to 60 ft (18.3 m) LOA pot catcher vessel sector.

(C) Pot gear sectors. The Regional Administrator will reallocate any projected unharvested amounts of Pacific cod TAC from the pot catcher/processor sector to the greater than or equal to 60 ft (18.3 m) LOA pot catcher vessel sector, and from the greater than or equal to 60 ft (18.3 m) LOA pot catcher vessel sector to the pot catcher/processor sector before reallocating it to the hook-and-line catcher/processor sector.

(iv) *Non-CDQ seasonal allowances*—(A) *Seasonal allowances by sector.* The BSAI Pacific cod sector allowances are apportioned by season, as those seasons are specified at § 679.23(e)(5), as follows:

Sector	Seasonal Allowances		
	A season	B season	C season
(*1*) Trawl			

Sector	Seasonal Allowances		
	A season	B season	C season
(*i*) Trawl CV	74 %	11 %	15 %
(*ii*) Trawl CP	75 %	25 %	0 %
(*2*) Hook-and-line CP, hook-and-line CV ≥60 ft (18.3 m) LOA, and pot gear vessels ≥60 ft (18.3 m) LOA	51 %	49 %	no C season
(*3*) Jig vessels	60 %	20 %	20 %
(*4*) All other nontrawl vessels	no seasonal allowance	no seasonal allowance	no seasonal allowance

(B) *Unused seasonal allowances.* Any unused portion of a seasonal allowance of Pacific cod from any sector except the jig sector will be reallocated to that sector's next season during the current fishing year unless the Regional Administrator makes a determination under paragraph (a)(7)(iii) of this section that the sector will be unable to harvest its allocation.

(C) *Jig sector.* The Regional Administrator will reallocate any projected unused portion of a seasonal allowance of Pacific cod for the jig sector under this section to the less than 60 ft (18.3 m) LOA hook-and-line or pot catcher vessel sector. The Regional Administrator will reallocate the projected unused portion of the jig sector's C season allowance on or about September 1 of each year.

* * * * *

5. Section 679.21 is amended by:

A. Removing paragraph (e)(1)(i).

B. Redesignating paragraphs (e)(1)(ii) through (e)(1)(ix) as (e)(1)(i) through (e)(1)(viii), respectively.

C. Adding paragraph (e)(3)(vi).

D. Revising paragraphs (e)(2), (e)(3)(i), (e)(3)(v), and (e)(4).

The additions and revisions read as follows:

§ 679.21 Prohibited species bycatch management.

* * * * *

(e) * * *

(2) *Nontrawl gear, halibut.* The PSC limit of halibut caught while conducting any nontrawl fishery for groundfish in the BSAI during any fishing year is the amount of halibut equivalent to 900 mt of halibut mortality.

(3) * * *

(i) *General.* (A) An amount equivalent to 7.5 percent of each PSC limit set forth in paragraphs (e)(1)(i) through (iv) and paragraphs (e)(1)(vi) through (e)(1)(viii) of this section is allocated to the groundfish CDQ Program as PSQ reserve. The PSQ reserve is not apportioned by gear or fishery.

(B) NMFS, after consultation with the Council and after subtraction of the PSQ reserve, will apportion each PSC limit set forth in paragraphs (e)(1)(i) through (vii) of this section into bycatch allowances for the fishery categories defined in paragraph (e)(3)(iv) of this section, based on each category's proportional share of the anticipated incidental catch during a fishing year of prohibited species for which a PSC limit is specified and the need to optimize the amount of total groundfish harvested under established PSC limits.

* * * * *

(v) *PSC apportionment to Pacific cod trawl fisheries.* The apportionment of the PSC allowance of halibut and crab to the Pacific cod trawl fishery category under paragraph (e)(3)(iv) of this section will be divided among the trawl sectors established at § 679.20(a)(7)(ii), as follows: 70.7 percent for the trawl catcher vessel sector; 4.4 percent for the AFA trawl catcher/processor sector; and 24.9 percent for the non-AFA trawl catcher/processor sector.

(vi) *AFA prohibited species catch limitations.* Halibut and crab PSC limits for the AFA trawl catcher/processor sector and the AFA trawl catcher vessel sector will be established according to the procedures and formulas set out in paragraph (e)(3)(v) of this section and in § 679.64(a) and (b) and managed through directed fishing closures for the AFA trawl catcher/processor sector and the AFA trawl catcher vessel sector in the groundfish fisheries for which the PSC limit applies.

(4) *Halibut apportionment to nontrawl fishery categories*—(i) *General.* (A) An amount equivalent to 7.5 percent of the nontrawl gear halibut PSC limit set forth in paragraph (e)(2) of this section is allocated to the groundfish CDQ Program as PSQ reserve. The PSQ reserve is not apportioned by gear or fishery.

(B) NMFS, after consultation with the Council and after subtraction of the PSQ reserve, will apportion the halibut PSC limit for nontrawl gear set forth under paragraph (e)(2) of this section into bycatch allowances for the nontrawl fishery categories defined under paragraph (e)(4)(ii) of this section.

(C) Apportionment of the nontrawl halibut PSC limit among the nontrawl fishery categories will be based on each category's proportional share of the anticipated bycatch mortality of halibut during a fishing year and the need to optimize the amount of total groundfish harvested under the nontrawl halibut PSC limit.

(D) The sum of all bycatch allowances of any prohibited species will equal its PSC limit.

(ii) *Nontrawl fishery categories.* For purposes of apportioning the nontrawl halibut PSC limit among fisheries, the following fishery categories are specified and defined in terms of round-weight equivalents of those BSAI groundfish species for which a TAC has been specified under § 679.20.

(A) *Pacific cod hook-and-line catcher vessel fishery.* Catcher vessels fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of Pacific cod that is greater than the retained amount of any other groundfish species.

(B) *Pacific cod hook-and-line catcher/processor fishery.* Catcher/processors fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of Pacific cod that is greater than the retained amount of any other groundfish species.

(C) *Sablefish hook-and-line fishery.* Fishing with hook-and-line gear during any weekly reporting period that results in a retained catch of sablefish that is greater than the retained amount of any other groundfish species.

(D) *Groundfish jig gear fishery.* Fishing with jig gear during any weekly reporting period that results in a retained catch of groundfish.

(E) *Groundfish pot gear fishery.* Fishing with pot gear under restrictions set forth in § 679.24(b) during any weekly reporting period that results in a retained catch of groundfish.

(F) *Other nontrawl fisheries.* Fishing for groundfish with nontrawl gear during any weekly reporting period that results in a retained catch of groundfish and does not qualify as a Pacific cod hook-and-line catcher vessel fishery, a Pacific cod hook-and-line catcher/processor fishery, a sablefish hook-and-line fishery, a jig gear fishery, or a groundfish pot gear fishery as defined under this paragraph (e)(4)(ii).

* * * * *

§ 679.23 [Amended]

6. In § 679.23, remove paragraphs (e)(6) and (e)(7).

7. Section 679.64 is amended by:

A. Removing paragraph (a)(1) introductory text.

B. Redesignating paragraph (a)(1)(i) as paragraph (a)(1) introductory text.

C. Redesignating paragraph (a)(2) introductory text as paragraph (a)(1)(i).

D. Redesignating paragraphs (a)(2)(i) and (ii) as paragraphs (a)(1)(i)(A) and(B), respectively.

E. Redesignating paragraph (a)(3) introductory text as paragraph (a)(1)(ii).

F. Redesignating paragraphs (a)(3)(i) through (iii) as paragraphs (a)(1)(ii)(A) through (C), respectively.

G. Redesignating paragraph (a)(4) introductory text as paragraph (a)(1)(iii).

H. Redesignating paragraphs (a)(4)(i) and (ii) as paragraphs (a)(1)(iii)(A) and (B), respectively.

I. Redesignating paragraph (a)(5) as paragraph (a)(2).

J. Redesignating paragraph (a)(6) as paragraph (a)(3).

K. Revising newly redesignated paragraphs (a)(1) introductory text and (a)(3).

The additions and revisions read as follows:

§ 679.64 Harvesting sideboards limits in other fisheries.

(a) * * *

(1) *How will groundfish sideboard limits for AFA listed catcher/processors be calculated?* Except for Aleutian Islands pollock and BSAI Pacific cod, the Regional Administrator will establish annual AFA catcher/processor harvest limits for each groundfish species or species group in which a TAC is specified for an area or subarea of the BSAI as follows:

* * * * *

(3) *How will AFA catcher/processor sideboard limits be managed?* The Regional Administrator will manage groundfish harvest limits and PSC bycatch limits for AFA catcher/processors through directed fishing closures in fisheries established under paragraph (a)(1) of this section in accordance with the procedures set out in §§ 679.20(d)(1)(iv) and 679.21(e)(3)(vi).

* * * * *

§§ 679.20, 679.21, 679.31, 679.32, 679.50, and 679.64 [Amended]

8. In the table below, for each of the paragraphs shown under the ''Paragraph'' column, remove the phrase indicated under the ''Remove'' column and replace it with the phrase indicated under the ''Add'' column for the number of times indicated in the ''Frequency'' column.

Paragraph(s)	Remove	Add	Frequency
§ 679.20(b)(1)(i)	except pollock and the	except pollock, Pacific cod, and the	2
Newly redesignated § 679.21(e)(1)(i) introductory text	paragraphs (e)(1)(iii)(A) through	paragraphs (e)(1)(i)(A) through	1
Newly redesignated § 679.21(e)(1)(ii) introductory text	paragraphs (e)(1)(iii)(A) and	paragraphs (e)(1)(ii)(A) and	1
Paragraph heading of newly redesignated § 679.21(e)(1)(vi)	*Chinook salmon*	*BS Chinook salmon*	1
§ 679.21(e)(3)(ii)(B)(*2*)	paragraph (e)(1)(ii) of	paragraph (e)(1)(i) of	1
§ 679.21(e)(7)(viii) introductory text	paragraphs (e)(1)(vii) and (e)(1)(ix) of	paragraphs (e)(1)(vi) and (e)(1)(viii) of	1
§ 679.21(e)(7)(viii)(A) introductory text	paragraph (e)(1)(vii) of	paragraph (e)(1)(vi) of	1
§ 679.21(e)(7)(viii)(B) introductory text	paragraph (e)(1)(ix) of	paragraph (e)(1)(viii) of	1
§ 679.31(c)	(See § 679.20(b)(1)(iii))	(See § 679.20(a)(7)(i) and (b)(1)(iii))	1
§ 679.31(e)	(See § 679.21(e)(1)(i) and (e)(2)(ii)).	(See § 679.21(e)(3)(i)(A) and (e)(4)(i)(A).	1
§ 679.32(b)	under § 679.21(e)(5) in	under § 679.21(e)(4) in	1
§ 679.50(c)(1)(iii)	under § 679.21(e)(7)(vi), or	under § 679.21(e)(7)(vii), or	1
Newly redesignated § 679.64(a)(1)(i)(B)	paragraph (a)(2)(i) of	paragraph (a)(1)(i)(A) of	1
Newly redesignated § 679.64(a)(1)(iii)(A)	paragraphs (a)(1)(ii) through (a)(3) of	paragraphs (a)(1)(i) through (a)(1)(ii) of	1
Newly redesignated § 679.64(a)(1)(iii)(B)	paragraph (a)(4)(i) of	paragraph (a)(1)(iii)(A) of	1
§ 679.64(b)(5)	and (e)(3)(v).	and (e)(3)(vi).	1

[FR Doc. 07–538 Filed 2–2–07; 2:22 pm]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 72, No. 25

Wednesday, February 7, 2007

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Revised Notice of Intent To Prepare a Supplement to the Final Environmental Impact Statement for Gypsy Moth Management in the United States: A Cooperative Approach

AGENCIES: Forest Service and Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of Intent to prepare a SEIS.

SUMMARY: On April 29, 2004 (69 FR 23492–93), the Forest Service (FS) and the Animal and Plant Health Inspection Service (APHIS) published in the **Federal Register** a Notice of Intent (NOI) to prepare a Supplement to the Final Environmental Impact Statement (EIS) for Gypsy Moth Management in the United States: a Cooperative Approach. The expected date for filing the Draft Supplemental EIS (SEIS) with the Environmental Protection Agency (EPA) was March 2005 and February 2006 for the Final SEIS.

On March 13, 2006 (71 FR 12674–75), the FS and APHIS published a Revised NOI in the **Federal Register** modifying the expected date for filing the Draft SEIS with the EPA to September 2006 and August 2007 for the Final SEIS.

Through this revised NOI, the FS and APHIS are extending the expected filing dates with the EPA for the Draft and Final SEIS.

DATES: The Draft SEIS is expected to be filed in July 2007. The Final SEIS is expected to be filed in July 2008.

FOR FURTHER INFORMATION CONTACT: Joseph L. Cook, Gypsy Moth SEIS Project Leader, Forest Service, Northeastern Area, State and Private Forestry, 180 Canfield Street, Morgantown, WV 26505. Telephone number: (304) 285–1523, e-mail: *jlcook@fs.fed.us*.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Further information can be found in the original NOI published in the **Federal Register**, Vol. 69, No. 83, pp. 23492–23493, on April 29, 2004.

Nature of the Decision to be Made: The responsible officials will decide whether or not to add the insecticide, tebufenozide (trade name Mimic), to their list of treatments for control of gypsy moth and whether or not to provide for the addition of other insecticides to their list of treatments for control of gypsy moth, if the other insecticides are within the range of effects and acceptable risks for the existing list of treatments.

Responsible Officials: The responsible official for the Forest Service is the Deputy Chief for State and Private Forestry. The responsible official for the Animal and Plant Health Inspection Service is the Deputy Administrator for Plant Protection and Quarantine.

Dated: January 31, 2007.

Robin L. Thompson,

Associate Deputy Chief, State and Private Forestry.

[FR Doc. E7–1980 Filed 2–6–07; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Suspend the Agricultural Labor Survey and Farm Labor Reports

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice of suspension of data collection and publication.

SUMMARY: This notice announces the intention of the National Agricultural Statistics Service (NASS) to suspend a currently approved information collection, the Agricultural Labor Survey, and its associated publication.

FOR FURTHER INFORMATION CONTACT: Joseph T. Reilly, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Agricultural Labor Survey.

OMB Control Number: 0535–0109.

Expiration Date of Approval: April 30, 2009.

Type of Request: To suspend a currently approved information collection.

Abstract: The primary objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, disposition, and prices. The Agricultural Labor Survey provides quarterly statistics on the number of agricultural workers, hours worked, and wage rates. Number of workers and hours worked are used to estimate agricultural productivity; wage rates are used in the administration of the H–2A Program and for setting Adverse Effect Wage Rates. Survey data are also used to carry out provisions of the Agricultural Adjustment Act. NASS will suspend this information collection as of February 7, 2007 due to budget constraints. NASS will not publish the January Farm Labor report due for release on Friday, February 16, 2007. The Farm Labor reports for April, July, and October 2007 will also not be published unless there is a change in the anticipated budget shortfall.

Authority: These data were collected under authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: There will be no further public reporting burden for this quarterly collection of information.

Signed at Washington, DC, February 1, 2007.

Joseph T. Reilly,

Associate Administrator.

[FR Doc. E7–1940 Filed 2–6–07; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Application for NATO International Competitive Bidding

ACTION: Extension of a Currently Approved Collection: Comments Request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 9, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230, (or via the internet at *DHynek@doc.gov*.).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Larry Hall, BIS ICB Liaison, Department of Commerce, Room 6622, 14th & Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

Opportunities to bid for contracts under the NATO Security Investment Program (NSIP) are only open to firms of member NATO countries. NSIP procedures for international competitive bidding (AC/4–D/2261) require that each NATO country certify that their respective firms are eligible to bid such contracts. This is done through the issuance of a ''Declaration of Eligibility.'' The U.S. Department of Commerce, Bureau of Industry and Security is the executive agency responsible for certifying U.S. firms. ITA–4023P and BIS–4023P are the application forms used to collect information needed to ascertain the eligibility of a U.S. firm. BIS will review applications for completeness and accuracy and determine a company's eligibility based on its financial viability, technical capability, and security clearances with the Department of Defense.

II. Method of Collection

Submitted on forms.

III. Data

OMB Number: 0694–0128.

Form Number: ITA–4023P and BIS–4023P.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit institutions.

Estimated Number of Respondents: 40.

Estimated Time Per Response: 1 hour.

Estimated Total Annual Burden Hours: 40.

Estimated Total Annual Cost: No start-up capital expenditures.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. In addition, the public is encouraged to provide suggestions on how to reduce and/or consolidate the current frequency of reporting.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: February 1, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–1973 Filed 2–6–07; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Special Comprehensive License

ACTION: Extension of a currently approved collection: request for comments.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 9, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington DC 20230, (or via the internet at *DHynek@doc.gov*.).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Larry Hall, BIS ICB Liaison, Department of Commerce, Room 6622, 14th & Constitution Avenue, NW., Washington, DC, 20230.

SUPPLEMENTARY INFORMATION:

I. Abstract

The SCL Procedure authorizes multiple shipments of items from the U.S. or from approved consignees abroad who are approved in advance by BIS to conduct the following activities: servicing, support services, stocking spare parts, maintenance, capital expansion, manufacturing, support scientific data acquisition, reselling and reexporting in the form received, and other activities as approved on a case-by-case basis.

II. Method of Collection

Submitted on forms.

III. Data

OMB Number: 0694–0089.

Form Number: BIS–748P and BIS–752P.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations and not-for-profit institutions.

Estimated Number of Respondents: 867.

Estimated Time Per Response: 5 minutes to 40 hours.

Estimated Total Annual Burden Hours: 1,017.

Estimated Total Annual Cost: No start-up capital expenditures.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. In addition, the public is encouraged to provide suggestions on

how to reduce and/or consolidate the current frequency of reporting.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: February 1, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–1981 Filed 2–6–07; 8:45 am]

BILLING CODE 3510–DT–P

DEPARTMENT OF COMMERCE

International Trade Administration

Application for Designation of a Fair

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on the continuing information collections, as required by the Paperwork Reduction Act of 1955, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before April 9, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 or via the Internet at *dHynek@doc.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: Valerie Barnes, Department of Commerce, ITA, Office of Global Trade Programs, Room 2114, 14th and Constitution Avenue, N.W., Washington, DC 20230; *Phone:* (202) 482–3955; *Fax:* (202) 482–0115.

SUPPLEMENTARY INFORMATION:

I. Abstract

The International Trade Administration, United States Foreign Commercial Service, Global Trade Programs, offers trade fair guidance and assistance to trade fair organizers, trade fair operators, and other travel and trade oriented groups. These fairs open doors to promising trade markets around the world. These trade fairs provide an opportunity for showcasing quality exhibitors and products from around the world. The ''Application for Designation of a Fair'' is a questionnaire that is prepared and signed by an organizer to begin the certification process. It asks the fair organizer to provide details as to the date, place, and sponsor of the fair, as well as license, permit, and corporate backers, and countries participating. To apply for the U.S. Department of Commerce certification, the fair organizer must have all the components of the application in order. Then, with the approval, the organizer is able to bring their products into the U.S. in accordance with Customs laws. Articles which may be brought in, include, but are not limited to, actual exhibit items, pamphlets, brochures, and explanatory material in reasonable quantities relating to the foreign exhibits at a trade fair, and material for use in constructing, installing, or maintaining foreign exhibits at a trade fair.

II. Method of Collection

The request is mailed, faxed, or e-mailed from to Department of Commerce, Office of Global Trade Programs, to the Trade Fair Chairperson.

III. Data

OMB Number: 0625–0228.

Form Number: ITA–4135P.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 220.

Estimated Time Per Response: 30 minutes.

Estimated Total Annual Burden Hours: 110.

Estimated Total Annual Cost: $2,200.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimized the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information collection technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: February 1, 2007.

Gwellnar Banks,

Management Analyst, Office of Chief Information Officer.

[FR Doc. E7–1974 Filed 2–6–07; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Scope Rulings

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

DATES: *Effective Date***:** February 7, 2007.

SUMMARY: The Department of Commerce (the Department) hereby publishes a list of scope rulings completed between October 1, 2006, and December 31, 2006. In conjunction with this list, the Department is also publishing a list of requests for scope rulings and anticircumvention determinations pending as of December 31, 2006. We intend to publish future lists after the close of the next calendar quarter.

FOR FURTHER INFORMATION CONTACT: Alice Gibbons, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0498.

SUPPLEMENTARY INFORMATION:

Background

The Department's regulations provide that the Secretary will publish in the **Federal Register** a list of scope rulings on a quarterly basis. *See* 19 CFR 351.225(o). Our most recent ''Notice of Scope Rulings'' was published on November 13, 2006. *See* 71 FR 66167. The instant notice covers all scope rulings and anticircumvention determinations completed by Import Administration between October 1, 2006, and December 31, 2006, inclusive. It also lists any scope or anticircumvention inquiries pending as of December 31, 2006. As described below, subsequent lists will follow after the close of each calendar quarter.

Scope Rulings Completed Between October 1, 2006 and December 31, 2006:

Italy

A–475–059: Pressure Sensitive Plastic Tape from Italy

Requestor: Ritrama Inc.; its dual–adhesive products (3–8699, 3–8700, 3–8701 and 3–8702) are not within the scope of the dumping finding on pressure sensitive plastic tape from

Italy, and its single–adhesive products (3–7464, 3–7597, 3–7600, 3–7604, 3–7701, 3–8094, 3–8545) are within the scope of the dumping finding on pressure sensitive plastic tape from Italy; December 8, 2006.

Japan

A–588–804: Ball Bearings and Parts Thereof from Japan

Requestor: Petitioner, Koyo Corporation of U.S.A.; certain of its x–ray spindle units from Japan are not within the scope of the antidumping duty order; December 14, 2006.

People's Republic of China

A–570–504: Petroleum Wax Candles from the People's Republic of China

Requestor: Avon Products, Inc.; its ''Cupcake Candle'' is not within the scope of the antidumping duty order; October 2, 2006.

A–570–832: Pure Magnesium from the People's Republic of China

Requestor: US Magnesium LLC; alloy magnesium extrusion billets produced in Canada by Timminco, Ltd. from pure magnesium of Chinese origin are not within the scope of the antidumping duty order; November 9, 2006.

A–570–832: Pure Magnesium from the People's Republic of China

Requestor: U.S. Magnesium LLC; pure magnesium produced in France using pure magnesium from the PRC is within the scope of the antidumping duty order; December 4, 2006.

A–570–864: Pure Magnesium in Granular Form from the People's Republic of China

Requestor: ESM Group Inc.; pure magnesium ingots from the United States, atomized in the PRC, and returned to the United States are not within the scope of the antidumping duty order; October 18, 2006.

A–570–886: Polyethylene Retail Carrier Bags from the People's Republic of China

Requestor: Consolidated Packaging LLP; the 23 plastic bags it imports are not within the scope of the antidumping duty order; October 3, 2006.

A–570–890: Wooden Bedroom Furniture from the People's Republic of China

Requestor: Tuohy Furniture Corporation; its storage towers, TV stands, coffee tables, and wood panels are not within the scope of the antidumping duty order, but its bedside tables and headboards are within the scope of the antidumping duty order; November 27, 2006.

A–570–890: Wooden Bedroom Furniture from the People's Republic of China

Requestor: American Signature, Inc.; its mirrored chests are included within the scope of the antidumping duty order; December 13, 2006.

A–570–896: Magnesium Metal from the People's Republic of China

Requestor: US Magnesium LLC; alloy magnesium extrusion billets produced in Canada by Timminco, Ltd. from pure magnesium of Chinese origin are not within the scope of the antidumping duty order; November 9, 2006.

A–570–901: Lined Paper Products from the People's Republic of China

Requestor: Bond Street Ltd.; its writing cases are not included within the scope of the antidumping duty order, and its two styles of writing tablets are included within the scope of the antidumping duty order; December 13, 2006.

Russian Federation

A–821–819: Magnesium Metal from the Russian Federation

Requestor: US Magnesium LLC; alloy magnesium extrusion billets produced in Canada by Timminco, Ltd. from pure magnesium of Russian origin are not within the scope of the antidumping duty order; November 9, 2006.

Anticircumvention Determinations Completed Between October 1, 2006 and December 31, 2006:

None.

Scope Inquiries Terminated Between October 1, 2006 and December 31, 2006:

People's Republic of China

A–570–878: Saccharin from the People's Republic of China

Requestor: PMC Specialties Group, Inc.; whether acid (insoluble) saccharin from the PRC converted in Israel into sodium saccharin, calcium saccharin or any other form of saccharin covered by the antidumping duty order is within the scope of the antidumping duty order; rescinded October 11, 2006.

A–570–890: Wooden Bedroom Furniture from the People's Republic of China

Requestor: American Signature, Inc.; whether its leather upholstered bed and microfiber upholstered bed are included within the scope of the antidumping duty order; initiated as a changed circumstances review on December 12, 2006.

Anticircumvention Inquiries Terminated Between October 1, 2006 and December 31, 2006:

None.

Scope Inquiries Pending as of December 31, 2006:

France

A–427–801: Ball Bearings and Parts Thereof from France

Requestor: The Gates Corporation; whether certain belt guide rollers are within the scope of the antidumping duty order; requested December 14, 2006.

Japan

A–588–702: Stainless Steel Butt–weld Pipe Fittings From Japan

Requestor: Kuze Bellows Kogyosho Co., Ltd.; whether its ''Kuze Clean Fittings'' for automatic welding are within the scope of the antidumping duty order; requested December 21, 2006.

People's Republic of China

A–570–502: Iron Construction Castings from the People's Republic of China

Requestor: A.Y. McDonald Manufacturing Company; whether its cast iron bases and upper bodies for meter boxes are within the scope of the antidumping duty order; requested July 7, 2006.

A–570–504: Petroleum Wax Candles from the People's Republic of China

Requestor: Meijer Distribution Inc.; whether its dracula, skeleton, mummy, bat, pumpkin, and ghost candles are within the scope of the antidumping duty order; requested October 24, 2006.

A–570–504: Petroleum Wax Candles from the People's Republic of China

Requestor: Lamrite West Inc., d.b.a. Darice, Inc.; whether its ''Victoria Lynn Wedding Collection'' wedding cake candles are within the scope of the antidumping duty order; requested October 25, 2006.

A–570–504: Petroleum Wax Candles from the People's Republic of China

Requestor: Lava Enterprises; whether its gingerbread man, gingerbread boy, and gingerbread girl candles are within the scope of the antidumping duty order; requested November 15, 2006.

A–570–504: Petroleum Wax Candles from the People's Republic of China

Requestor: FashionCraft–Excello, Inc.; whether its flip flops (pink, blue, orange, or yellow), wedding cake (white, ivory, pink or silver), baby bottle (pink or blue), pears, rubber duckie, coach

(silver or gold), baby carriage (pink or blue), and teddy bear on a rocking horse (pink or blue) candles, based on the ''Novelty'' Exception from FashionCraft–Excello, Inc., are within the scope of the antidumping duty order; requested December 8, 2006.

A–570–846: Brake Rotors from the People's Republic of China

Requestor: Federal–Mogul Corporation; whether its brake rotors that include an Original Equipment Manufacturer (''OEM'') logo in the casting or are certified by an OEM are within the scope of the antidumping duty order; requested August 14, 2006.

A–570–848: Freshwater Crawfish Tailmeat from the People's Republic of China

Requestor: Maritime Products International; whether breaded crawfish tailmeat is within the scope of the antidumping duty order; initiated December 18, 2006.

A–570–882: Refined Brown Aluminum Oxide from the People's Republic of China

Requestor: 3M Company; whether certain semi–friable and heat–treated, specialty aluminum oxides are within the scope of the antidumping duty order; requested September 19, 2006.

A–570–890: Wooden Bedroom Furniture from the People's Republic of China

Requestor: Toys 'R Us, Inc.; whether its toy boxes are within the scope of the antidumping duty order; requested September 26, 2006.

A–570–890: Wooden Bedroom Furniture from the People's Republic of China

Requestor: Tuohy Furniture Corp.; whether wainscoting is within the scope of the antidumping duty order; requested December 12, 2006.

A–570–891: Hand Trucks from the People's Republic of China

Requestor: Ameristep Corporation, Inc.; whether its ''non–typical'' deer cart (product no. 7800) and its ''grizzly'' deer cart (product no. 9800) are within the scope of the antidumping duty order; requested November 15, 2006.

A–570–891: Hand Trucks from the People's Republic of China

Requestor: Bond Street Ltd.; whether its slide–flat cart (style no. 390009CHR) is within the scope of the antidumping duty order; requested December 8, 2006.

A–570–898: Chlorinated Isocyanurates from the People's Republic of China

Requestor: BioLab, Inc.; whether chlorinated isocyanurates originating in the PRC, that are packaged, tableted, blended with additives, or otherwise further processed in Canada before entering the U.S., are within the scope of the antidumping duty order; requested November 22, 2006.

A–570–901: Lined Paper Products from the People's Republic of China

Requestor: Avenues in Leather, Inc., whether its cases with three ring binders and folios (a.k.a. pad folios) are within the scope of the antidumping duty order; initiated November 9, 2006.

A–570–901: Lined Paper Products from the People's Republic of China

Requestor: Lakeshore Learning Materials, whether certain printed educational materials (product numbers: RR973; RR974; GG185; GG186; GG181; GG182; RR673; RR674; AA185; AA186; RR630; RR631; AA786; AA787; AA181; AA182; GG324; GG325; JJ537; JJ538; JJ342; JJ343; JJ225; JJ226; GG823; RR801ML2; AA953ML3; GG528JNL; GG381JRN; RR969; RR968; GG145; GG146; EE372; GG154; GG155; LA125; EE419; GG241JNL; AA559; AA558; AA565; AA555; EE441; EE442; EE443; EE444; EE651; EE652; EE633; EE654; JJ2206; JJ2207; JJ255; JJ258) are within the scope of the antidumping duty order; requested December 7, 2006.

Anticircumvention Rulings Pending as of December 31, 2006:

People's Republic of China

A–570–001: Potassium Permanganate from the People's Republic of China

Requestor: Specialty Products International, Inc.; whether sodium permanganate is later–developed merchandise that is circumventing the antidumping duty order; requested October 10, 2006.

A–570–504: Petroleum Wax Candles from the People's Republic of China

Requestor: National Candle Association; whether candles assembled in the United States from molded or carved articles of wax (a.k.a. wickless wax forms) from the PRC are circumventing the antidumping duty order; initiated May 11, 2006.

A–570–868: Folding Metal Tables and Chairs from the People's Republic of China

Requestor: Meco Corporation; whether the common leg table (a folding metal table affixed with cross bars that enable the legs to fold in pairs) produced in the PRC is a minor alteration that circumvents the antidumping duty order; initiated June 1, 2006.

A–570–894: Certain Tissue Paper Products from the People's Republic of China

Requestor: Seaman Paper Company; whether imports of tissue paper from Vietnam made out of jumbo rolls of tissue paper from the PRC are circumventing the antidumping duty order; initiated September 5, 2006.

Interested parties are invited to comment on the completeness of this list of pending scope and anticircumvention inquiries. Any comments should be submitted to the Deputy Assistant Secretary for AD/CVD Operations, Import Administration, International Trade Administration, 14th Street and Constitution Avenue, NW, Room 1870, Washington, DC 20230.

This notice is published in accordance with 19 CFR 351.225(o).

Dated: February 1, 2007.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E7–2029 Filed 2–6–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020107C]

Endangered Species; File No. 1549

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that Dr. Boyd Kynard, (Permit Holder and Principal Investigator), S. O. Conte Anadromous Fish Research Center (USGS-BRD); Box 796, One Migratory Way; Turner Falls, Massachusetts 01376, has been issued a permit to conduct scientific research on shortnose sturgeon (*Acipenser brevirostrum*).

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298; phone (978)281–9328; fax (978)281–9394.FOR FURTHER INFORMATION CONTACT: Malcolm Mohead or Carrie Hubard, (301)713–2289.

SUPPLEMENTARY INFORMATION: On November 10, 2005, notice was published in the Federal Register (70 FR 68398) that a request for a scientific research permit to take shortnose sturgeon had been submitted by Dr. Boyd Kynard. The requested permit has been issued under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 et seq.) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

Dr. Boyd Kynard, of the S.O. Conte Anadromous Fish Research Center, is permitted to conduct scientific research to determine up and downstream migrations, habitat use, spawning periodicity, seasonal movements, and growth of shortnose sturgeon in the Connecticut River (from Agawan to Montague, MA), and in the Merrimack River (at Haverhill, MA), and in the Androscoggin River (ME). In addition, Dr. Kynard is authorized to take a total of 1,000 fertilized eggs annually from each of the following rivers: Kennebec River and Androscoggin River (ME); Merrimack River (MA); Hudson River (NY); Delaware River (DE); Potomac River (MD); and Santee-Cooper River (SC). The permit is authorized for a duration of 5 years.

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: February 2, 2007.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–2043 Filed 2–6–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 020107D]

Marine Mammals; File No. 87–1851

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that Daniel P. Costa, Ph.D., Department of Biology and Institute of Marine Sciences, University of California, Santa Cruz, CA 95064 has been issued a permit to conduct research on pinnipeds in Antarctica and California.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Jaclyn Daly, (301)713–2289.

SUPPLEMENTARY INFORMATION: On August 3, 2006, notice was published in the **Federal Register** (71 FR 44020) that a request for a scientific research permit to conduct research on seals and sea lions had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The 5–year permit authorizes tagging studies and physiological research on seals in Antarctica, including crabeater seals (*Lobodon carcinophagus*), southern elephant seals (*Mirounga leonina*), leopard seals (*Hydrurga leptonyx*), Weddell seals (*Leptonychotes weddellii*), and Ross seals (*Ommatophoca rossii*). The permit also authorizes research on California sea lions (*Zalophus californianus*) to investigate foraging, diving, energetics, food habits, and at-sea distribution along the California coast. Incidental harassment of California sea lions, harbor seals (*Phoca vitulina*), northern elephant seals (*Mirounga augustirostris*), and northern fur seals (*Callorhinus ursinus*) is authorized.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: February 1, 2007.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–2044 Filed 2–6–07; 8:45 am]

BILLING CODE 3510–22–S

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), has submitted a public information collection request (ICR) entitled the Application Instructions for State Administrative Funds, Program Development Assistance and Training, and Disability Placement to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). Copies of this ICR, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Ms. Amy Borgstrom at (202) 606–6930. Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 565–2799 between 8:30 a.m. and 5 p.m. eastern time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to the Office of Information and Regulatory Affairs, Attn: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in this **Federal Register**:

(1) By fax to: (202) 395–6974, Attention: Ms. Katherine Astrich, OMB Desk Officer for the Corporation for National and Community Service; and

(2) Electronically by e-mail to: *Katherine_T._Astrich@omb.eop.gov*.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate

automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Comments

A 60-day public comment Notice was published in the **Federal Register** on Thursday, November 9, 2006. This comment period ended January 8, 2007. No public comments were received from this notice.

Description: The Corporation is seeking approval of the Application Instructions for State Administrative Funds, Program Development Assistance and Training, and Disability Placement which will be used by state commissions to apply for funds to support activities related to administration, training, and access for people with disabilities.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Application Instructions for State Administrative Funds, Program Development Assistance and Training, and Disability Placement.

OMB Number: 3049–0099.

Agency Number: None.

Affected Public: State commissions.

Total Respondents: 54.

Frequency: Every three (3) years.

Average Time Per Response: 24 hours.

Estimated Total Burden Hours: 1296 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: February 2, 2007.

Kristin McSwain,

Director, AmeriCorps State and National.

[FR Doc. E7–2033 Filed 2–6–07; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF EDUCATION

Advisory Committee on Student Financial Assistance: Hearing

AGENCY: Advisory Committee on Student Financial Assistance, Education.

ACTION: Notice of upcoming hearing.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming hearing of the Advisory Committee on Student Financial Assistance (The Advisory Committee). Individuals who will need accommodations for a disability in order to attend the hearing (i.e., interpreting services, assistive listening devices, and/or materials in alternative format) should notify the Advisory Committee no later than Monday, February 26, 2007, by contacting Ms. Hope Gray at (202) 219–2099 or via e-mail at *Hope.Gray@ed.gov.* We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The hearing site is accessible to individuals with disabilities. This notice also describes the functions of the Advisory Committee. Notice of this hearing is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public.

DATE AND TIME: Monday, March 5, 2007, beginning at 9:30 a.m. and ending at approximately 3 p.m.

ADDRESSES: College of the Canyons, Performing Arts Center, 26455 Rockwell Canyon Road, Santa Clarita, California 91355.

FOR FURTHER INFORMATION CONTACT: Ms. Erin B. Renner, Director of Government Relations or Ms. Julie J. Johnson, Assistant Director, Advisory Committee on Student Financial Assistance, Capitol Place, 80 F Street, NW., Suite 413, Washington, DC 20202–7582, (202) 219–2099.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Student Financial Assistance is established under Section 491 of the Higher Education Act of 1965 as amended by Public Law 100–50 (20 U.S.C. 1098). The Advisory Committee serves as an independent source of advice and counsel to the Congress and the Secretary of Education on student financial aid policy. Since its inception, the congressional mandate requires the Advisory Committee to conduct objective, nonpartisan, and independent analyses on important aspects of the student assistance programs under Title IV of the Higher Education Act, and to make recommendations that will result in the maintenance of access to postsecondary education for low- and middle-income students. In addition, Congress expanded the Advisory Committee's mission in the Higher Education Amendments of 1998 to include several important areas; Access, Title IV modernization, distance education, and early information and needs assessment. Specifically, the Advisory Committee is to review, monitor and evaluate the Department of Education's progress in these areas and report recommended improvements to Congress and the Secretary.

The Advisory Committee has scheduled the hearing on Monday, March 5 in Santa Clarita, CA to conduct activities related to its congressionally requested study to make textbooks more affordable (Textbook Study). This one-year study, which was requested by the U.S. House of Representatives Committee on Education and Labor (formerly Education and the Workforce), will investigate further the problem of rising textbook prices; determine the impact of rising textbook prices on students' ability to afford a postsecondary education; and make recommendations to Congress, the Secretary, and other stakeholders on what can be done to make textbooks more affordable for students. Over the course of the study, the Committee will conduct three field hearings that will include testimony from stakeholders around the country who are currently working to make textbooks more affordable for students.

The proposed agenda includes expert testimony and discussions by prominent higher education community leaders, state representatives, and institutions that will share what they are doing to make textbooks more affordable for students. The Advisory Committee will also conduct a public comment and discussion session.

The Advisory Committee invites the public to submit written comments on the Textbook Study to the following e-mail address: *ACSFA@ed.gov.* Information regarding the Textbook Study will also be available on the Advisory Committee's Web site, *http://www.ed.gov/ACSFA. To be included in the hearing materials, we must receive your comments on or before Monday, February 26, 2007; additional comments should be provided to the Committee no later than April 9, 2007.*

Space for the hearing is limited and you are encouraged to register early if you plan to attend. You may register by sending an e-mail to the following address: *ACSFA@ed.gov* or *Tracy.Deanna.Jones@ed.gov.* Please include your name, title, affiliation, complete address (including internet and e-mail address, if available), and telephone and fax numbers. If you are unable to register electronically, you may fax your registration information to the Advisory Committee staff office at (202) 219–3032. You may also contact the Advisory Committee staff directly at (202) 219–2099. The registration deadline is Friday, February 23, 2007.

Records are kept for Advisory Committee proceedings, and are available for inspection at the Office of the Advisory Committee on Student Financial Assistance, Capitol Place, 80 F Street, NW.—Suite 413, Washington, DC, from the hours of 9 a.m. to 5:30 p.m. Monday through Friday, except Federal holidays. Information regarding the

Advisory Committee is available on the Committee's Web site, *www.ed.gov/ACSFA.*

Dated: February 1, 2007.

Dr. William J. Goggin,

Executive Director, Advisory Committee on Student Financial Assistance.

[FR Doc. 07–531 Filed 2–6–07; 8:45 am]

BILLING CODE 4000–01–M

ELECTION ASSISTANCE COMMISSION

Information Collection Activity; Study of Voter Hotlines Operated by Election Offices

AGENCY: U.S. Election Assistance Commission (EAC).

ACTION: Notice; request for comments.

SUMMARY: The EAC, as part of its continuing effort to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995, invites the general public and other Federal agencies to take this opportunity to comment on a proposed information collection. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

DATES: Written comments must be submitted on or before April 6, 2007.

ADDRESSES: Submit comments and recommendations on the proposed information collection in writing to the U.S. Election Assistance Commission, 1225 New York Avenue, NW., Suite 1100, Washington, DC 20005, *ATTN:* Ms. Laiza N. Otero (or via the Internet at *lotero@eac.gov*).

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the survey instrument, please, write to the above address or call Ms. Laiza N. Otero at (202) 566–3100. You may also view the proposed collection instrument by visiting our Web site at *www.eac.gov.*

SUPPLEMENTARY INFORMATION:

Title: Study of Voter Hotlines Operated by Election Offices.

OMB Number: Pending.

Type of Review: Regular submission.

Needs and Uses: Section 241(b)(9) of the Help America Vote Act (HAVA) requires the U.S. Election Assistance Commission (EAC) to periodically study election administration issues, including methods of educating voters about the process of registering to vote and voting, the operation of voting mechanisms, the location of polling places, and all other aspects of participating in elections. Furthermore, Section 245(a)(2)(C) of HAVA indicates that the EAC may investigate the impact new communications or Internet technology systems used in the electoral process could have on voter participation rates, voter education, and public accessibility. In 2005, the EAC undertook a research study of voter hotline data available online to determine trends. At the time a voter hotline was defined as a toll-free line that connects voters with elections offices, which then disseminate information and educate voters. The EAC found several hotlines in operation during the 2004 Presidential election, and their sponsorship and capabilities varied to a great degree. To build on and augment these research findings, the EAC wishes to conduct a study to determine the current state of voter information hotlines that are operated by Federal, State, and local election offices. The definition of voter hotline has been broadened to include data from government agencies that employ non-toll free interactive phone systems to provide services to voters and pollworkers and to receive information from callers.

Affected Public: Federal, State, and local election offices.

Estimated Number of Respondents: 6,500.

Responses per Respondent: 1.

Estimated Burden per Response: 1 hour.

Estimated Total Annual Burden Hours: 6,500 hours.

Information will be collected through a survey of existing hotline services operated by Federal, State, and local government agencies and election offices during the 2006 primary and general elections. The data collected will include information on voter hotlines operated by election offices and their features, including, but not limited to:

1. *Basic Information.* Hotline hours of operation, type of information available through the hotline, automated or non-automated service, links to other sources of voting information.

2. *Costs.* Breakdown of cost based on volume, cost of database maintenance per record, and all personnel and administrative costs of the service.

3. *Features.* Important factors include, but are not limited to: (1) Languages used, (2) disability-compliant features, (3) touch tone and voice services, (4) voice response options, and (5) ability for interactivity with additional databases (for example interactivity with a voter registration database).

4. *Network Capacity.* Number of calls capable of being routed per hour and the number of incoming calls that can be received.

5. *Call Tracking.* How calls are logged or tracked, how they are routed, and the types or categories of calls received.

6. *Hotline personnel.* Number of hotline operators and methods by which hotline operators are trained, the frequency of their training and how they are monitored for accuracy, currency, security, and other critical performance variables.

7. Methods by which the network operator maintains the accuracy and currency of the data. Important factors include, but are not limited to how regularly updates are made and quality-control procedures.

8. *Maintenance agreements with service providers.* Percentage of hotlines that outsource all or part of the Hotline, and experiences working with contractors?

9. *Timelines* for database creation, contractor integration, and final testing before launch.

10. Security measures to ensure that data in the call-routing network is confidential.

11. *Other information* such as: Who the intended audience is; demographic, political and socioeconomic information of the community served; cost of publicizing the service and effectiveness of various publicity methods; and lessons learned.

A report on the key findings of the study, along with recommendations for the development and implementation of voter hotlines, will be made available to election officials and the public at the conclusion of this effort. The report will include a state-by-state compendium of the existing voter hotlines and their features. The report will be made available on the EAC Web site at *http://www.eac.gov.*

Thomas R. Wilkey,

Executive Director, U.S. Election Assistance Commission.

[FR Doc. 07–533 Filed 2–6–07; 8:45 am]

BILLING CODE 6820–KF–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–435–006]

ANR Pipeline Company; Notice of Compliance Filing

February 1, 2007.

Take notice that on January 29, 2006 ANR Pipeline Company (ANR), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed on Appendix a to the filing, with an effective date of March 1, 2007.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–2017 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2100]

California Department of Water Resources; Notice of Authorization for Continued Project Operation

February 1, 2007.

On January 26, 2005, the California Department of Water Resources, licensee for the Feather River Hydroelectric Project, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. The Feather River Project is located on the Feather River near Oroville, California.

The license for Project No. 2100 was issued for a period ending January 31, 2007. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year-to-year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable Section of the FPA.

Notice is hereby given that an annual license for Project No. 2100 is issued to the California Department of Water Resources for a period effective February 1, 2007 through January 31, 2008, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before January 31, 2008, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the Commission, unless the Commission orders otherwise.

Magalie R. Salas,

Secretary.

[FR Doc. E7–2016 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–166]

CenterPoint Energy Gas Transmission Company; Notice of Filing

February 1, 2007.

Take notice that on January 29, 2007, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Sheet Nos. 864 through 879, to be effective January 29, 2007.

CEGT states that the purpose of this filing is to reflect the expiration of negotiated rates with respect to certain transactions.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–2026 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–154–000]

Dauphin Island Gathering Partners; Notice of Proposed Changes in FERC Gas Tariff

February 1, 2007.

Take notice that on January 30, 2007, Dauphin Island Gathering Partners (Dauphin Island) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, to be effective March 2, 2007:

First Revised Sheet No. 1
Third Revised Sheet No. 18
Second Revised Sheet No. 32
Fourth Revised Sheet No. 50
Second Revised Sheet No. 64
Second Revised Sheet No. 75
First Revised Sheet No. 88
Second Revised Sheet No. 101
Fourth Revised Sheet No. 247

Dauphin Island states that copies of the filing are being served on its customers and other interested parties.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–2022 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–146–000]

Discovery Gas Transmission LLC; Notice of Petition for Waiver

January 30, 2007.

Take notice that on January 25, 2007, Black Marlin Pipeline Company (Black Marlin) filed a Petition for Waiver of Tariff Provisions and Request for Expedited Action. Black Marlin states that the purpose of this filing is to seek waiver of certain tariff provisions of Black Marlin's FERC Gas Tariff, First Revised Volume No. 1, to allow Black Marlin the ability to measure gas more accurately at delivery points.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time February 6, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1917 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–079]

Dominion Transmission, Inc.; Notice of Negotiated Rates

February 1, 2007.

Take notice that on January 30, 2007, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective February 1, 2007:

Seventh Revised Sheet No. 1405
First Revised Sheet No. 1413
First Revised Sheet No. 1420
First Revised Sheet No. 1421

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and

interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–2013 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–144–000]

El Paso Natural Gas Company; Notice of Filing

January 30, 2007.

Take notice that on January 24, 2007, El Paso Natural Gas Company (EPNG) tendered for filing nine Rate Schedule FT–1 transportation service agreements (TSAs) containing revised exhibits with UNS Gas, Inc., Arizona Public Service Company and Public Service Company of New Mexico, which are currently referenced as non-conforming agreements in its FERC Gas Tariff, Second Revised Volume No. 1–A.

EPNG states that the TSAs are being submitted to update certain information contained in the attached exhibits.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1915 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–152–000]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

February 1, 2007.

Take notice that on January 29, 2007, El Paso Natural Gas Company tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1A, Fourteenth Revised Sheet No. 2 to become effective March 1, 2007, a Rate Schedule FT–1 transportation service agreement (TSA), two Rate Schedule FT–H TSAs and one Rate Schedule OPAS agreement all with Salt River Project Agricultural Improvement and Power District.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–2020 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–88–001]

El Paso Natural Gas Company; Notice of Compliance Filing

February 1, 2007.

Take notice that, on January 29, 2007, El Paso Natural Gas Company (EPNG) submitted a compliance filing pursuant to the Commission's order issued December 29, 2006 in Docket No. RP07–88–000.

EPNG states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–2025 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–113–001]

Enbridge Pipelines (Midla) L.L.C.; Notice of Compliance Filing

February 1, 2007.

Take notice that on January 22, 2007, Enbridge Pipelines (Midla) L.L.C. (Midla) tendered for filing an explanation as to why certain non-conforming agreements were not included as part of its filing dated December 19, 2006.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on February 8, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–2018 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER04–183–000]

Great Bay Hydro Corporation; Notice of Issuance of Order

February 1, 2007.

Great Bay Hydro Corporation (GBHC) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of energy, capacity and ancillary services at market-based rates. GBHC also requested waivers of various Commission regulations. In particular, GBHC requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by GBHC.

On December 19, 2003, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the requests for blanket approval under part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approvals of issuances of securities or assumptions of liability by GBHC should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 C.F.R. 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is February 15, 2007.

Absent a request to be heard in opposition by the deadline above, GBHC is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of GBHC, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of GBHC's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E7–2014 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–149–000]

Gulf South Pipeline Company, LP; Notice of Proposed Changes in FERC Gas Tariff

January 30, 2007.

Take notice that on January 26, 2007, Gulf South Pipeline Company (Gulf South) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets, to become effective March 1, 2007:

First Revised Sheet No. 805A
Second Revised Sheet No. 810
First Revised Sheet No. 900
Second Revised Sheet No. 901
Original Sheet No. 901A
Original Sheet No. 901B
Second Revised Sheet No. 902
First Revised Sheet No. 903
Original Sheet No. 904
Sheet Nos. 905–999
Second Revised Sheet No. 1705
Second Revised Sheet No. 1708
Original Sheet No. 1708A

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1920 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP07–68–000]

Gulf South Pipeline Company, LP; Notice of Application

January 30, 2007.

Take notice that on January 22, 2007, Gulf South Pipeline Company LP (Gulf South), 20 East Greenway, Houston, Texas 77046, filed in Docket No. CP07–68–000 an application pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon, in place, one compressor unit at the Edna Compressor Station, Jackson County, Texas and four compressor units at the Refugio Compressor Station, Refugio County, Texas, all as more fully set forth in the application.

The application is on file with the Commission and open for public inspection. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* and follow the instructions or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Any questions concerning this request may be directed to J. Kyle Stephens, Director of Certificates, Gulf South Pipeline Company, LP, 20 East Greenway Plaza, Houston, Texas 77046, or call (713) 544–7309, by fax (713) 544–3540, or by e-mail to *kyle.stephens@gulfsouthpl.com.*

Gulf South states that it is required, by the Texas Commission on Environmental Quality (TCEQ), to reduce its overall NO_x output by 50% in East and South Texas. Gulf South contends that as part of its strategy to meet TCEQ's requirement, Gulf South has chosen to permanently abandon four compressor units at Refugio and one compressor unit at Edna instead of retrofitting the stations with expensive emissions reducing equipment. Gulf South avers that it would be able to meet all of its firm transportation obligations without these facilities and meet TCEQ requirements for the reduction of NO_x emissions in a cost effective manner.

Gulf South asserts that no interruption, reduction, or termination of natural gas service would occur as a result of the proposed abandonment.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

The Commission strongly encourages electronic filing of comments, protests and interventions via the Internet in lieu of paper. See 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site *www.ferc.gov* under the ''e-Filing'' link.

Comment Date: February 20, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1923 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–157–017]

Kern River Gas Transmission Company; Notice of Negotiated Rate

January 30, 2007.

Take notice that on January 25, 2007, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective February 1, 2007:

Eleventh Revised Sheet No. 495
Sixth Revised Sheet No. 496
Fourth Revised Sheet No. 497

Kern River states that it has served a copy of this filing upon its customers and interested state regulatory commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1907 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–155–000]

Southern LNG Inc.; Notice of Proposed Changes to FERC Gas Tariff

February 1, 2007.

Take notice that on January 30, 2007, Southern LNG Inc. (SLNG) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised sheets to be effective March 1, 2007:

Seventeenth Revised Sheet No. 5.
Seventeenth Revised Sheet No. 6.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–2023 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–156–000]

Southern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

February 1, 2007.

Take notice that on January 30, 2007, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following revised sheets to become effective March 1, 2007:

Eighth Revised Sheet No. 26
Seventh Revised Sheet No. 27
Seventh Revised Sheet No. 28
Forty-Seventh Revised Sheet No. 29
Twenty-Ninth Revised Sheet No. 30

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–2024 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP07–70–000]

Southern Natural Gas Company; Notice of Application

February 1, 2007.

Take notice that Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP07–70–000 on January 26, 2005, an application pursuant to section 7(b) of the Natural Gas Act (NGA), to abandon, by removal, six compressor engines at its Toca Compressor Station in St. Bernard Parish, Louisiana (Toca Engines), all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be also viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call (202) 502–8222 or TTY, (202) 208–1659.

To comply with the United States Environmental Protection Agency and its national emission standards for hazardous pollutants for stationary reciprocating internal combustion engines under the provisions of Code 40 of the Federal Regulation Part 63 Subpart ZZZZ on June 15, 2004, Southern proposes to abandon six essentially standby Toca Engines. In addition, Southern submits that, by abandoning these engines, it would avoid approximately $368,000 per year in maintenance expenses and would also avoid approximately $3,000,000 to bring the engines up to code. Furthermore, Southern states that it is capable of meeting the existing gas supplies in the area without the Toca Engines.

Pursuant to Section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all Federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Any questions regarding this application should be directed to Patrick B. Pope, Vice President and General Counsel, Southern Natural Gas Company, Post Office Box 2563, Birmingham, Alabama 35202–2563 at (205) 325–77126 (telephone), or Patricia S. Francis, Senior Counsel, Southern Natural Gas Company, Post Office Box 2563, Birmingham, Alabama 35202–2563 at (205) 325–7696.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: February 22, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–2027 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP07–69–000]

Southwest Gas Storage Company; Notice of Application

January 30, 2007.

Take notice that on January 26, 2007, Southwest Gas Storage Company (Southwest), P.O. Box 4967, Houston, Texas 77210–4967, filed in docket CP07–69–000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA), as amended, seeking authority to purchase additional base gas and adjust the working storage capacity and maximum storage inventory of the North Hopeton Storage Field located in Woods County, Oklahoma, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, call (202) 502–8659 or TTY, (202) 208–3676.

Any questions regarding this application should be directed to Michael T. Langston, Senior Vice President of Government and Regulator Affairs, Southwest Gas Storage Company, 544 Westheimer Road, Houston, Texas 77056, or call (713) 989–7000.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments protests and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web (*http://www.ferc.gov*) site under the ''e-Filing'' link.

Comment Date: February 20, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1908 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–145–000]

Stingray Pipeline Company, L.L.C.; Notice of Tariff Filing

January 30, 2007.

Take notice that on January 25, 2007, Stingray Pipeline Company, L.L.C. (Stingray) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Original Sheet No. 208, with an effective date of January 21, 2007.

Stingray states that it is filing this supplement to add two potentially non-conforming agreements to the December 22, 2006 filing with the Commission and to request approval of the additional potentially non-conforming agreements.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1916 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–150–000]

Stingray Pipeline Company, L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

January 30, 2007.

Take notice that on January 26, 2007, Stingray Pipeline Company, L.L.C. (Stingray) tendered for filing as part of Stingray's FERC Gas Tariff, Third Revised Volume No. 1, Original Sheet No. 209 and Sheet Nos. 210–299 (reserved for future use), with an effective date of February 1, 2007.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of § 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1922 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–151–000]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

February 1, 2007.

Take notice that on January 29, 2007 Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Fourth Revised Sheet No. 368, to become effective March 1, 2007.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–2019 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–153–000]

Texas Gas Transmission, LLC; Notice of Cash-Out Revenue Adjustment

February 1, 2007.

Take notice that on January 29, 2007, Texas Gas Transmission, LLC (Texas Gas) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to become effective March 1, 2007:

Ninth Revised Sheet No. 20
Eighth Revised Sheet No. 21
Ninth Revised Sheet No. 22
Sixth Revised Sheet No. 23
Eighth Revised Sheet No. 25
Ninth Revised Sheet No. 26
Ninth Revised Sheet No. 29
Ninth Revised Sheet No. 30

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time February 9, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–2021 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–147–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

January 30, 2007.

Take notice that on January 25, 2007, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, to become effective May 1, 2007:

Eighth Revised Sheet No. 276
First Revised Sheet No. 276D
First Revised Sheet No. 276E
Fourth Revised Sheet No. 337A

Transco states that the purpose of the instant filing is to extend deadline by which point operators submit their predetermined allocations to Transco and to clarify language related to Transco's handling of nominations received after the Intraday 2 Nomination Cycle.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1918 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP07–148–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

January 30, 2007.

Take notice that on January 25, 2007, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, and the following tariff sheets, to become effective February 25, 2007:

Fifth Revised Sheet No. 283
Sixth Revised Sheet No. 312
Fifth Revised Sheet No. 323
Third Revised Sheet No. 325

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1919 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER07–301–000]

Wildorado Wind, LLC; Notice of Issuance of Order

January 31, 2007.

Wildorado Wind, LLC (Wildorado) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of energy and capacity at market-based rates. Wildorado also requested waivers of various Commission regulations. In particular, Wildorado requested that the Commission grant blanket approval under 18 CFR Part 34 of all future

issuances of securities and assumptions of liability by Wildorado.

On January 31, 2007, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the requests for blanket approval under Part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approvals of issuances of securities or assumptions of liability by Wildorado should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is March 2, 2007.

Absent a request to be heard in opposition by the deadline above, Wildorado is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Wildorado, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Wildorado's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1929 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR07–7–000]

Tesoro Refining and Marketing Company Complainant, v. Calnev Pipe Line, L.L.C.; Respondent; Notice of Complaint

January 31, 2007.

Take notice that on January 30, 2007, Tesoro refining and Marketing Company (Tesoro) filed a formal complaint against Calnev Pipe Line, L.L.C. (Calnev) pursuant to Rule 206 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission, 18 CFR 385.206; the Procedural Rules Applicable to Oil Pipeline Proceedings, 18 CFR 343.2; sections 1(5), 8, 9, 13, 15, and 16 of the Interstate Commerce Act, 49 U.S.C. App. §§ 1(5), 8, 9, 13, 15, and 16 (1984); and section 1803 of the Energy Policy Act of 1992 (EPA).

Complainant alleges that Calnev's interstate rates are unjust and unreasonable. Complainant requests that the Commission determine that the rates established by Calnev are unjust and unreasonable; prescribe new rates that are just and reasonable for the shipment of refined petroleum products from Colton, CA to McCarran International Airport and North Las Vegas, NV; determine that Calnev overcharged Tesoro for shipments of jet fuel from Colton, CA to McCarran International Airport, NV from at least February 1, 2005 to the present date and is continuing to overcharge Tesoro for such shipments; order Calnev to pay refunds, reparations and damages, plus interests, to Tesoro for shipments made by Tesoro under each of the relevant tariffs; determine that section 1803 of the EPA of 1992 does not prevent Tesoro from filing its Complaint or the Commission from ordering the relief requested; grant the Tesoro Motion to Consolidate this docket with on-going Commission proceedings in Docket Nos. IS06–296–000 and Or07–5–000; and grant Tesoro such other, different or additional relief as the Commission may determine to be appropriate.

Tesoro certifies that copies of the complaint were served on the contacts for Calnev as listed on the Commission's list of Corporate Officials.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 1, 2007.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1928 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

January 30, 2007.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC07–50–000.

Applicants: Lake Road Generating Company, LP; BG North America.

Description: Lake Road Generating Company, LP et al. submits a joint application for authorization of the disposition of jurisdictional facilities pursuant to Section 203.

Filed Date: 1/22/2007.

Accession Number: 20070125–0192.

Comment Date: 5 p.m. Eastern Time on Monday, February 12, 2007.

Docket Numbers: EC07–51–000.

Applicants: DPL Energy, LLC.

Description: DPL Energy, LLC submits an application for approval of the

transfer by sale of 100% of the Greenville Generating Station and its associated jurisdictional assets to Buckeye Power, Inc.

Filed Date: 1/23/2007.

Accession Number: 20070125–0181.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 13, 2007.

Docket Numbers: EC07–52–000.

Applicants: Mirant Americas, Inc.; Mirant Energy Trading, LLC; Mirant Las Vegas, LLC; Mirant North America, LLC; Mirant Sugar Creek, LLC; Mirant Zeeland, LLC; Shady Hills Power Company, L.L.C.; West Georgia Generating Company, L.L.C.; LS Power Power Acquistition Co. I, LLC; LS Power Marketing, LLC.

Description: Mirant Americas Inc et al. submits an application requesting authorization sales and acquisition transaction under Section 203 of the FPA.

Filed Date: 1/24/2007.

Accession Number: 20070126–0280.

Comment Date: 5 p.m. Eastern Time on Wednesday, February 14, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER91–569–036.

Applicants: Entergy Services Inc.

Description: Entergy Arkansas, Inc and Entergy Gulf States, Inc et al. submit a non-material change in status report pursuant to the requirements of Order 652.

Filed Date: 1/26/2007.

Accession Number: 20070129–0118.

Comment Date: 5 p.m. Eastern Time on Friday, February 16, 2007.

Docket Numbers: ER98–830–014; ER03–719–005; ER03–720–005; ER03–721–005.

Applicants: Millenium Power Partners, LLC; New Athens Generating Company, LLC; New Covert Generating Company, LLC; New Harquahala Generating Company, LLC.

Description: MACH Gen, LLC et al. submits a supplement to its notice of non-material change in status.

Filed Date: 01/25/2007.

Accession Number: 20070129–0115.

Comment Date: 5 p.m. Eastern Time on Thursday, February 15, 2007.

Docket Numbers: ER03–736–005.

Applicants: CAM Energy Products, L.P.

Description: CAM Energy Products, LP submits its triennial updated market power analysis pursuant to FERC's order issued on 6/12/03.

Filed Date: 1/25/2007

Accession Number: 20070129–0034.

Comment Date: 5 p.m. Eastern Time on Thursday, February 15, 2007.

Docket Numbers: ER04–208–003.

Applicants: Citigroup Energy Inc.

Description: Citigroup Energy, Inc submits its Triennial Updated Market Analysis pursuant to FERC's order issued 1/7/04.

Filed Date: 12/21/2006.

Accession Number: 20061227–0039.

Comment Date: 5 p.m. Eastern Time on Friday, February 9, 2007.

Docket Numbers: ER05–6–094; EL04–135–097; EL02–111–114; EL03–212–110.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits its refund report pursuant to the Commission's 11/8/06 Order.

Filed Date: 1/25/2007.

Accession Number: 20070129–0116.

Comment Date: 5 p.m. Eastern Time on Thursday, February 15, 2007.

Docket Numbers: ER05–463–001.

Applicants: Mendota Hills, LLC.

Description: Mendota Hills, LLC submits a notification of non-material change in status.

Filed Date: 1/29/2007.

Accession Number: 20070129–5051.

Comment Date: 5 p.m. Eastern Time on Monday, February 19, 2007.

Docket Numbers: ER06–1397–001.

Applicants: Allegheny Ridge Wind Farm, LLC.

Description: Allegheny Ridge Wind Farm, LLC submits a notification of non-material change in status.

Filed Date: 1/29/2007.

Accession Number: 20070129–5050.

Comment Date: 5 p.m. Eastern Time on Monday, February 19, 2007.

Docket Numbers: ER06–1467–002; ER06–451–018.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc submits portions of its OATT relating to its real-time energy imbalance service market, effective 1/1/07.

Filed Date: 1/25/2007.

Accession Number: 20070126–0294.

Comment Date: 5 p.m. Eastern Time on Thursday, February 15, 2007.

Docket Numbers: ER07–127–002.

Applicants: California Independent System Operator Corporation

Description: California Independent System Operator Corporation submits its compliance filing pursuant to the Commission's 12/28/06 order.

Filed Date: 1/29/2007.

Accession Number: 20070129–5043.

Comment Date: 5 p.m. Eastern Time on Monday, February 19, 2007.

Docket Numbers: ER07–232–001.

Applicants: Aragonne Wind LLC.

Description: Aragonne Wind LLC notification of non-material change in status.

Filed Date: 1/29/2007.

Accession Number: 20070129–5049.

Comment Date: 5 p.m. Eastern Time on Monday, February 19, 2007.

Docket Numbers: ER07–465–000.

Applicants: Oklahoma Gas and Electric Company.

Description: Oklahoma Gas and Electric Co submits a notice of cancellation of its Rate Schedule 145, Reserve Sharing Agreement with Oklahoma Municipal Power Authority.

Filed Date: 1/25/2007.

Accession Number: 20070126–0292.

Comment Date: 5 p.m. Eastern Time on Thursday, February 15, 2007.

Docket Numbers: ER07–466–000.

Applicants: Met Ma, LLC.

Description: MET MA, LLC submits an application for market-based rate authorization & request for waivers and blanket authorizations.

Filed Date: 1/25/2007.

Accession Number: 20070126–0293.

Comment Date: 5 p.m. Eastern Time on Thursday, February 15, 2007.

Docket Numbers: ER07–467–000.

Applicants: Sierra Pacific Power Company.

Description: Sierra Pacific Power Co submits a notice of cancellation of an amended operating agreement with Plumas-Sierra Rural Electric Cooperative, Northern California Power Agency & Pacific Gas and Electric Co.

Filed Date: 1/26/2007.

Accession Number: 20070126–0295.

Comment Date: 5 p.m. Eastern Time on Friday, February 16, 2007.

Docket Numbers: ER07–468–000.

Applicants: Sierra Pacific Power Company.

Description: Sierra Pacific Power Co submits an executed Interconnection Agreement with Plumas-Sierra Rural Electric Cooperative & notice of cancellation of Rate Schedule 29.

Filed Date: 1/26/2007.

Accession Number: 20070126–0296.

Comment Date: 5 p.m. Eastern Time on Friday, February 16, 2007.

Docket Numbers: ER07–471–000.

Applicants: Puget Sound Energy, Inc.

Description: Puget Sound Energy, Inc submits amendments to Sections 12A(1) and 12B(1) of the Power Contract-Rock Island Joint System dated 6/19/74 with Public Utility District 1 of Chelan County, WA.

Filed Date: 1/26/2007.

Accession Number: 20070129–0117.

Comment Date: 5 p.m. Eastern Time on Friday, February 16, 2007.

Take notice that the Commission received the following electric securities filings:

Docket Numbers: ES07–17–000.

Applicants: AEP Generating Company.

Description: AEP Generating Co submits an Application, Under Section 204 of the Federal Power Act, for Authorization to Issue Securities.

Filed Date: 1/26/2007.

Accession Number: 20070126–5004.

Comment Date: 5 p.m. Eastern Time on Friday, February 16, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1906 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

January 31, 2007.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG07–35–000.

Applicants: Dillon Wind LLC.

Description: Dillon Wind LLC submits its notice of Self-Certification of Exempt Wholesale Generator Status.

Filed Date: 01/26/2007.

Accession Number: 20070130–0259.

Comment Date: 5 p.m. Eastern Time on Friday, February 16, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER02–2339–002.

Applicants: Citadel Energy Products LLC.

Description: Citadel Energy Products LLC submits an amendment to its 7/28/05 updated market power analysis filing.

Filed Date: 01/26/2007.

Accession Number: 20070130–0077.

Comment Date: 5 p.m. Eastern Time on Friday, February 16, 2007.

Docket Numbers: ER07–113–001.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest ISO et al. submits proposed revisions to its Open Access Transmission and Energy Markets Tariff etc.

Filed Date: 01/29/2007.

Accession Number: 20070131–0017.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 20, 2007.

Docket Numbers: ER07–343–001.

Applicants: Alcoa Power Generating Inc.

Description: Alcoa Power Generating Inc (APGI) on behalf of its Tapoco Division submits an amendment to the revised tariff sheets submitted on 12/20/06 to Electric Rate Schedules Nos. 4, 5, and 6, which is redesignated as APGI Rate Schedule No. 17.

Filed Date: 01/26/2007.

Accession Number: 20070130–0258.

Comment Date: 5 p.m. Eastern Time on Friday, February 16, 2007.

Docket Numbers: ER07–374–001.

Applicants: Buena Vista Energy, LLC.

Description: Buena Vista Energy, LLC notification of non-material change in status.

Filed Date: 01/29/2007.

Accession Number: 20070129–5047.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 20, 2007.

Docket Numbers: ER07–474–000.

Applicants: New York Independent System Operator., Inc.

Description: New York Independent System Operator, Inc submits proposed revisions to its Market Administration and Control Area Services Tariff and its OATT.

Filed Date: 01/29/2007.

Accession Number: 20070131–0016.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 20, 2007.

Docket Numbers: ER07–475–000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corp submits its long-term transmission rights.

Filed Date: 01/29/2007.

Accession Number: 20070131–0018.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 20, 2007.

Docket Numbers: ER07–480–000.

Applicants: MidAmerican Energy Company.

Description: MidAmerican Energy Co submits an amended Network Integration Transmission Service Agreement and an amended Network Operating Agreement with the City of Geneseo, IL updated 1/16/07.

Filed Date: 01/30/2007.

Accession Number: 20070131–0028.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 20, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and

interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1924 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11858–002]

Elsinore Municipal Water District and the Nevada Hydro Company, Inc, CA; Notice of Availability of the Final Environmental Impact Statement for the Proposed Lake Elsinore Advanced Pumped Storage Project

January 30, 2007.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared the final Environmental Impact Statement (EIS) Lake Elsinore Advanced Pumped Storage Project in the above-referenced docket.

The final EIS was prepared to satisfy the requirements of the National Environmental Policy Act of 1969, as amended, and the FERC regulations, 18 CFR Part 380. The Office of Energy Projects has reviewed the application for license for the proposed Lake Elsinore Advanced Pumped Storage Project, located on Lake Elsinore and San Juan Creek, in the Town of Lake Elsinore, Riverside County, California.

In the final EIS, Commission staff evaluated the co-applicant's proposal and the alternatives for licensing the proposed project. The final EIS documents the views of governmental agencies, non-governmental organizations, affected Indian tribes, the public, the license applicants, and Commission staff.

Copies are available for review in Public Reference Room 2–A of the Commission's offices at 888 First Street, NE., Washington, DC. The EIS also may be viewed on the Commission's Internet Web site (*http://www.ferc.gov*) using the ''eLibrary'' link. Additional information about the project is available from the Commission's Office of External Affairs at (202) 502–6088, or on the Commission's Web site using the eLibrary link. For assistance with eLibrary, contact *FERCOnlineSupport@ferc.gov.* or call toll-free at (866) 208–3676; for TTY contact (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1910 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Declaration of Intention and Soliciting Comments, Protests, and/or Motions to Intervene

January 30, 2007.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI07–2–000.

c. *Date Filed:* January 16, 2007.

d. *Applicant:* Alaska Power & Telephone Company.

e. *Name of Project:* Yerrick Creek Hydro Project.

f. *Location:* The proposed Yerrick Creek Hydro Project will be located on Yerrick Creek, tributary to the Tanana River, near the town of Tok, Alaska, affecting T. 18 N., R. 9 E, secs. 1, 2, 11, 14; T. 18 N, R. 10 E, sec. 6; and T. 19 N, R. 9 E, sec. 36, Copper River Meridian.

g. *Filed Pursuant to:* section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Glen D. Martin, Project Manager, Alaska Power & Telephone Company, P.O. Box 3222, 193 Otto Street, Port Townsend, WA 98368; telephone: (360) 385–1733, fax: (360) 385–5177; e-mail: *glen.m@aptalaska.com.*

i. *FERC Contact:* Any questions on this notice should be addressed to Henry Ecton, (202) 502–8768, or E-mail address: *henry.ecton@ferc.gov.*

j. *Deadline for filing comments, protests, and/or motions:* March 2, 2007.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426. Comments, protests, and/or interventions may be filed electronically via the Internet in lieu of paper. Any questions, please contact the Secretary's Office. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site at *http://www.ferc.gov.*

Please include the docket number (DI07–2–000) on any comments, protests, and/or motions filed.

k. *Description of Project:* The proposed Yerrick Creek Hydro Project would include: (1) A small diversion structure, with a sipon-type intake; (2) a 36-inch-diameter, 11,000-foot-long penstock; (3) a powerhouse containing a 1.5-MW Pelton-type turbine; (4) a 1.15-mile-long transmission line, connected to an existing power grid; and (5) appurtenant facilities. The project will not occupy any tribal or federal lands.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link, select ''Docket#'' and follow the instructions. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-

free at (866) 208–3676, or TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', AND/OR ''MOTIONS TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1909 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12607–001]

The Town of Massena Electric Department; Notice of Intent To File License Application, Filing of Pre-Application Document, Commencement of Licensing Proceeding, Scoping Meetings, Solicitation of Comments on the Pad and Scoping Document, and Identification of Issues and Associated Study Requests

January 30, 2007.

a. *Type of Filing:* Notice of Intent to File License Application for an Original License and Commencing Licensing Proceeding.

b. *Project No.:* 12607–001.

c. *Date Filed:* December 8, 2006.

d. *Submitted By:* The Town of Massena Electric Department (Massena Electric).

e. *Name of Project:* Massena Grasse River Hydroelectric Project.

f. *Location:* On the Grasse River, in St. Lawrence County, New York. The project does not occupy any Federal land.

g. *Filed Pursuant to:* 18 CFR part 5 of the Commission's Regulations.

h. *Applicant Contact:* Mr. Andrew J. McMahon, P.E., Superintendent, The Town of Massena Electric Department, 71 East Hatfield St., Massena, NY 13662, (315) 764–0253, *amcmahon@massenaelectric.com.*

i. *FERC Contact:* Michael Watts, (202) 502–6123, or via e-mail at *michael.watts@ferc.gov.*

j. We are asking Federal, State, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in paragraph o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402; and (b) the State Historic Preservation Officer, as required by section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Massena Electric as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. Massena Electric filed a Pre-Application Document (PAD), including a proposed process plan and schedule with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations. The Commission issued Scoping Document 1 (SD1) on January 30, 2007.

n. A copy of the PAD and SD1 are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Copies are also available for inspection and reproduction at the address in paragraph h.

Register online at *http://ferc.gov/esubscribenow.htm* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and SD1, as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application (original and eight copies) must be filed with the Commission at the following address: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All filings with the Commission must include on the first page, the project name (Massena Grasse River Hydroelectric Project) and number (P–12607–001), and bear the heading ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency

requesting cooperating status must do so by April 7, 2007.

Comments on the PAD and SD1, study requests, requests for cooperating agency status, and other permissible forms of communications with the Commission may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''efiling'' link.

p. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an environmental impact statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the times and places noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Evening Scoping Meeting:

Date: Thursday, March 1, 2007.

Time: 7 p.m. to 9 p.m.

Location: Quality Inn/Massena, 10 Orvis Street, Massena, NY 13662.

Daytime Scoping Meeting:

Date: Friday, March 2, 2007.

Time: 9 a.m. to 12 p.m.

Location: Quality Inn/Massena, 10 Orvis Street, Massena, NY 13662.

For Directions: please call Ms. Shirley Williamson at (617) 960–4995, or via e-mail at *williamsonsh@pbworld.com.*

SD1, which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the Web at *http://www.ferc.gov,* using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Depending on the extent of comments received, a Scoping Document 2 may or may not be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

Site Visit

Massena Electric and commission staff will conduct a site visit of the proposed project site on March 1, 2007, starting at 9 a.m. All participants interested in seeing the proposed project site should meet in the parking lot of the Massena Town Hall building, located at 60 Main Street, Massena, New York. All participants attending the site visit should be prepared to provide their own transportation. Anyone with questions about the site visit (or for directions) should contact Shirley Williamson at 617–960–4995 or via e-mail at *williamsonsh@pbworld.com.*

Scoping Meeting Objectives

At the scoping meetings, staff will: (1) Present a proposed list of issues to be addressed in the EA; (2) review and discuss existing conditions and resource agency management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of Federal, State, and tribal permitting and certification processes; and (5) discuss requests by any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in item n of this document.

Scoping Meeting Procedures

The meetings will be recorded by a stenographer and will become part of the formal Commission record on the project.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1911 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2149–131]

Public Utility District No. 1 of Douglas County, WA; Notice of Intent To File License Application, Filing of Pre-Application Document, Commencement of Licensing Proceeding, Scoping, Solicitation of Comments on the Pad and Scoping Document, and Identification Issues and Associated Study Requests

January 29, 2007.

a. *Type of Filing:* Notice of Intent to File License Application for a New License and Commencing Licensing Proceeding.

b. *Project No.:* 2149–131.

c. *Dated Filed:* December 1, 2006.

d. *Submitted By:* Public Utility District No. 1 of Douglas County, Washington (Douglas County PUD).

e. *Name of Project:* Wells Hydroelectric Project.

f. *Location:* The project is located on the Columbia River near the towns of Pateros and Brewster in Okanogan County, Washington. There are 232.7 acres of federal lands located within the project boundary that are administered by the Bureau of Land Management, U.S. Army Corps of Engineers, or the Bureau of Reclamation.

g. *Filed Pursuant to:* 18 CFR Part 5 of the Commission's Regulations.

h. *Potential Applicant Contact:* William C. Dobbins, Manager, Douglas County PUD, 1151 Valley Mall Parkway, East Wenatchee, WA 98802.

i. *FERC Contact:* Bob Easton at (202) 502–6045 or e-mail at *robert.easton@ferc.gov.*

j. We are asking Federal, State, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in paragraph o below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See*, 94 FERC 61,076 (2001).

k. With this notice, we are initiating informal consultation with: (a) The U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402 and (b) the State Historic Preservation Officer, as required by

section 106, National Historical Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Douglas County PUD as the Commission's non-federal representative for carrying out informal consultation, pursuant to section 7 of the Endangered Species Act and section 106 of the National Historic Preservation Act.

m. Douglas County PUD filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, of for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in paragraph h.

Register online at *http://ferc.gov/esubscribenow.htm* to be notified via e-mail of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. With this notice, we are soliciting comments on the PAD and Scoping Document 1 (SD1), as well as study requests. All comments on the PAD and SD1, and study requests should be sent to the address above in paragraph h. In addition, all comments on the PAD and SD1, study requests, requests for cooperating agency status, and all communications to and from Commission staff related to the merits of the potential application (original and eight copies) must be filed with the Commission at the following address: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All filings with the Commission must include on the first page, the project name (Wells Hydroelectric Project) and number (P–2149–131), and bear the heading ''Comments on Pre-Application Document,'' ''Study Requests,'' ''Comments on Scoping Document 1,'' ''Request for Cooperating Agency Status,'' or ''Communications to and from Commission Staff.'' Any individual or entity interested in submitting study requests, commenting on the PAD or SD1, and any agency requesting cooperating status must do so by April 2, 2007.

Comments on the PAD and SD1, study requests, requests for cooperating agency status, and other permissible forms of communications with the Commission may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-filing'' link.

p. Although our current intent is to prepare an environmental assessment (EA), there is the possibility that an Environmental Impact Statement (EIS) will be required. Nevertheless, this meeting will satisfy the NEPA scoping requirements, irrespective of whether an EA or EIS is issued by the Commission.

Scoping Meetings

Commission staff will hold two scoping meetings in the vicinity of the project at the time and place noted below. The daytime meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the evening meeting is primarily for receiving input from the public. We invite all interested individuals, organizations, and agencies to attend one or both of the meetings, and to assist staff in identifying particular study needs, as well as the scope of environmental issues to be addressed in the environmental document. The times and locations of these meetings are as follows:

Daytime Scoping Meeting:

Date: Wednesday, February 28, 2007.

Time: 9 a.m.

Location: Douglas County PUD Auditorium, 1151 Valley Mall Parkway, East Wenatchee, Washington.

Evening Scoping Meeting:

Date: Wednesday, February 28, 2007.

Time: 7 p.m.

Location: Columbia Cove Community Center, 601 West Cliff Avenue, Brewster, Washington.

SD1, which outlines the subject areas to be addressed in the environmental document, was mailed to the individuals and entities on the Commission's mailing list. Copies of SD1 will be available at the scoping meetings, or may be viewed on the Web at *http://www.ferc.gov*, using the ''eLibrary'' link. Follow the directions for accessing information in paragraph n. Based on all oral and written comments, a Scoping Document 2 (SD2) may be issued. SD2 may include a revised process plan and schedule, as well as a list of issues, identified through the scoping process.

Site Visit

The potential applicant and Commission staff will conduct a site visit of the project on Tuesday, February 27, 2007, starting at 9 a.m. All participants should meet at the Wells Dam Visitors Center off of U.S. Highway 97. All participants are responsible for their own transportation. Anyone with questions about the site visit should contact Ms. Mary Mayo of Douglas County PUD at (509) 881–2488 on or before February 21, 2007.

Meeting Objectives

At the scoping meetings, staff will: (1) Initiate scoping of the issues; (2) review and discuss existing conditions and resource management objectives; (3) review and discuss existing information and identify preliminary information and study needs; (4) review and discuss the process plan and schedule for pre-filing activity that incorporates the time frames provided for in Part 5 of the Commission's regulations and, to the extent possible, maximizes coordination of Federal, State, and tribal permitting and certification processes; and (5) discuss the appropriateness of any federal or state agency or Indian tribe acting as a cooperating agency for development of an environmental document.

Meeting participants should come prepared to discuss their issues and/or concerns. Please review the PAD in preparation for the scoping meetings. Directions on how to obtain a copy of the PAD and SD1 are included in item n. of this document.

Meeting Procedures

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission proceeding on the project.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1912 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

January 30, 2007.

a. *Type of Application:* Application for Non-Project Use of Project Lands and Waters.

b. *Project Number:* P–2686–054.

c. *Date Filed:* January 16, 2007.

d. *Applicant:* Duke Energy Carolinas, LLC.

e. *Name of Project:* Westfork Hydroelectric Project No. 2686.

f. *Location:* The project is located on the West Fork of the Tuckasegee River in Jackson County, North Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a) 825(r) and 799 and 801.

h. *Applicant Contact:* Mr. Kelvin K. Reagan, Senior Lake Services Representative, Duke Energy Carolinas, LLC, P.O. Box 1006, Charlotte, NC 28201, telephone (704) 382–9386.

i. *FERC Contact:* Any questions on this notice should be addressed to Chris Yeakel at telephone (202) 502–8132, or e-mail address: *christopher.yeakel@ferc.gov*.

j. *Deadline for filing comments and/or motions:* March 2, 2007.

k. *Description of Request:* Duke Energy Carolinas, LLC proposes to grant a lease of 0.55 acres of project lands for non-project use as a private marina to provide access to Lake Glenville for residents of the Point Glenville Lake subdivision. The marina will consist of a cluster dock with 10 boat docking locations and will be constructed of Ipewood decking, a metal frame and encapsulated Styrofoam for floatation. The project will include 294.28 feet of shoreline stabilization utilizing dry-stack stone and rip-rap.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field (P–2686) to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*; for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions To Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers (P–2686–054). All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1913 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

January 30, 2007.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No.:* 3511–013.

c. *Date Filed:* January 26, 2007.

d. *Applicants:* Central Hudson Gas & Electric Corporation (Transferor) and Lower Saranac Corporation (Transferee).

e. *Name and Location of Project:* The Groveville Mills Project is located on Fishkill Creek, in Dutchess County, New York.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* For Transferor: John A. Whittaker IV, Winston & Strawn LLP, 1700 K Street, NW., Washington, DC 20006, (202) 282–5000. For Transferee: Stephen Champagne, Senior Vice President & General Counsel, Enel North America, Inc., One Tech Drive, Suite 220, Andover, MA 01810, (978) 296–6812.

h. *FERC Contact:* Etta L. Foster (202) 502–8769.

i. *Deadline for filing comments, protests, and motions to intervene:* February 16, 2007.

All documents (original and eight copies) should be filed with Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper, see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–3511–013) on any comments, protests, or motions filed. The Commission's Rules of Practice and Procedure require all intervenors filing a document with the Commission to serve a copy of that document on each person in the official service list for the project.

Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the documents on that resource agency.

j. *Description of Application:* Applicants request approval, under section 8 of the Federal Power Act, of a transfer of license for the Groveville Mills Project No. 3511 from Central Hudson Gas & Electric Corporation to Lower Saranac Corporation.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the project number excluding the last three digits (P–3511) in the docket number field to access the document.

For online assistance, contact *FERCOnlineSupport@ferc.gov* or call toll-free (866) 208–3676, for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the addresses in item g.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

o. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filling comments, it will be assumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1914 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Terms and Conditions, and Fishway Prescriptions

January 31, 2007.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No.:* 2390–056.

c. *Date Filed:* October 3, 2006.

d. *Applicant:* Northern States Power Company of Wisconsin-d/b/a. Excel Energy, Inc.

e. *Name of Project:* Big Falls Hydroelectric Project.

f. *Location:* The project is located on the Flambeau River, in Rusk County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. Robert W. Olson, Northern States Power Company of Wisconsin, d.b.a. Excel Energy, Inc., 1414 West Hamilton Avenue, P.O. Box 8, Eau Claire, WI 54702–008. Tel: (715) 839–1353.

i. *FERC Contact:* Mr. Vedula Sarma, Telephone (202) 502–6190, and e-mail *vedula.sarma@ferc.gov.*

j. Deadline for filing motions to intervene and protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions is 60 days from the issuance of this notice; reply comments are due 105 days from the issuance date of this notice. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Motions to intervene, protests, comments, recommendations, terms and conditions, and fishway prescriptions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. This application has been accepted for filing and is now is ready for environmental analysis.

The applicant proposes to amend the license for the Big Falls Project to include a jurisdictional Turtle-Flambeau Storage Reservoir located on the North Fork of the Flambeau River near Mercer County, Wisconsin, as a project feature of the Big Falls Project.

l. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, 202–502–8659. A copy is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/esubscribenow.htm* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or '' FISHWAY PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and

conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, recommendations, terms and conditions or prescriptions should relate to project works which are the subject of the license amendment. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

n. A license applicant must file no later than 60 days following the date of issuance of this notice of acceptance and ready for environmental analysis provided for in § 4.34(b)(5)(i): (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Magalie R. Salas,

Secretary.

[FR Doc. E7–1927 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

February 1, 2007.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12765–000.

c. *Date Filed:* January 8, 2007.

d. *Applicant:* Town of Indian Lake.

e. *Name and Location of Project:* The proposed Indian Lake Dam Project would be located on the Indian River in the Town of Indian Lake and Hamlet of Sabael, Hamilton County, New York. The project would include the existing Indian Lake Dam which is owned by Hudson River-Black River Regulating District, a New York Public Benefit Corporation.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contact:* Barry Hutchins, Supervisor, Town of Indian Lake, Town Hall, Pelon Road, P.O. Box 730, Indian Lake, NY 12842, (518) 648–5885.

h. *FERC Contact:* Tom Papsidero, (202) 502–6002.

i. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12765–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Competing Application:* Project No. 12699 filed June 21, 2006, revised October 19, 2006. Notice issued November 8, 2006, with deadline for comments and motions to intervene of January 8, 2007.

k. *Description of Proposed Project:* The proposed project would include the existing earth embankment and stone masonry Indian Lake Dam, 490-foot-long and 47-foot-high, which is owned by Hudson River-Black River Regulating District, and its existing impoundment. The Indian Lake Dam impounds the Indian Lake Reservoir which has a surface area of 4,404 acres at an elevation of 1,651 feet above mean sea level. The proposed project would also consist of the following new facilities: (1) A 50-foot-long, 5-foot-wide steel penstock, (2) a powerhouse containing two generating units with a total installed capacity of 2.0 megawatts, (3) a 3-mile-long, 34.5 kV transmission line, connecting to an existing power line, and (4) appurtenant facilities. The project would have an annual generation of 4.5 GWh, which would be sold to a local utility.

l. *Location of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item g above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit

would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

s. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E7–2015 Filed 2–6–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0038; FRL–8113–9]

Syracuse Research Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that pesticide related information submitted to EPA's Office of Pesticide Programs (OPP) pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA), including information that may have been claimed as Confidential Business Information (CBI) by the submitter, will be transferred to Syracuse Research Corporation in accordance with 40 CFR 2.307(h)(3) and 2.308(i)(2). Syracuse Research Corporation has been awarded multiple contracts to perform work for OPP, and access to this information will enable Syracuse Research Corporation to fulfill the obligations of the contract.

DATES: Syracuse Research Corporation will be given access to this information on or before February 12, 2007.

FOR FURTHER INFORMATION CONTACT: Felicia Croom, Information Technology and Resources Management Division (7502P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-0786; e-mail address: *croom.felicia@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2007–0038. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr*.

II. Contractor Requirements

Under Contract No. EP06H000149, the contractor will perform the following: Develop surface water scenarios based on the type of assessment needed. A list will be supplied by the EPA Project Officer. For the standard risk assessment process, these typically include a national or regional scenario which is used in the screening-level risk assessment. Occasionally, a more localized standard scenario or type may be needed to answer specific questions related to risk and mitigation.

The contractor shall use the guidance provided, including the Pesticide Root Zone Model (PRSM) Guidance for Selecting Field Crop and Orchard Scenario Development Input Parameters, the Input Parameter Guidance, and the example input scenario file to develop a single scenario for each of the identified crop/geography combinations. This task may also include the development of scenarios specifically tailored to assessing risks to endangered organism which need refinement based on species occurrence, habitat, life pattern, pesticide-use pattern, and agronomic practices. The need to rapidly develop local scenarios to provide estimated environmental concentrations (EECs) relevant to a specific endangered species is critical to the assessment of risk to endangered species.

OPP has determined that the contracts described in this document involve work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under

this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), the contract with Syracuse Research Corporation, prohibits use of the information for any purpose not specified in this contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual*. In addition, Syracuse Research Corporation is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to Syracuse Research Corporation until the requirements in this document have been fully satisfied. Records of information provided to Syracuse Research Corporation will be maintained by the EPA Project Officer for this contract. All information supplied to Syracuse Research Corporation by EPA for use in connection with this contract will be returned to EPA when Syracuse Research Corporation has completed its work.

List of Subjects

Environmental protection, Business and industry, Government contracts, Government property, Security measures.

Dated: January 29, 2007.

Robert A. Forrest,

Acting Director, Office of Pesticide Programs.

[FR Doc. E7–1797 Filed 2–6–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8276–2]

Good Neighbor Environmental Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

Background: Under the Federal Advisory Committee Act, P.L. 92463, EPA gives notice of a meeting of the Good Neighbor Environmental Board. The Board meets three times each calendar year at different locations along the U.S.-Mexico border and in Washington, DC. It was created by the Enterprise for the Americas Initiative Act of 1992. An Executive Order delegates implementing authority to the Administrator of EPA. The Board is responsible for providing advice to the President and the Congress on environmental and infrastructure issues and needs within the States contiguous to Mexico. The statute calls for the Board to have representatives from U.S. Government agencies; the States of Arizona, California, New Mexico and Texas; tribal representation; and a variety of non-governmental officials.

Purpose: One purpose of this meeting is to obtain feedback on the theme of the Board's Tenth Report, which is on the intersection of border security and the environment. Another purpose is to obtain early input on the theme selected for its Eleventh Report, natural hazards and the environment. The meeting also will include a strategic planning session, a business meeting, and a public comment session. It will be preceded by a public press conference to launch the Tenth Report. A copy of the meeting agenda will be posted at *http://www.epa.gov/ocem/gneb.*

DATES: The Good Neighbor Environmental Board will hold an open meeting on Tuesday, March 13, from 9 a.m. (registration at 8:30 a.m.) to 5:30 p.m. and Wednesday, March 14, from 8 a.m. (registration 7:30 a.m.) to 5 p.m.

ADDRESSES: The meeting will be held at the Hotel Washington, Sky Room, Pennsylvania Avenue and 15th Street, NW., Washington, DC. Telephone: 202–638–5900. The meeting is open to the public, with limited seating on a first-come, first-served basis.

FOR FURTHER INFORMATION CONTACT: Elaine Koerner, Designated Federal Officer, *koerner.elaine@epa.gov,* 202–233–0069, U.S. EPA, Office of Cooperative Environmental Management (1601E), 1200 Pennsylvania Avenue NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION: Requests to make brief oral comments or provide written statements to the Board should be sent to Elaine Koerner, Designated Federal Officer, at the contact information above.

Meeting Access: For information on access or services for individuals with disabilities, please contact Elaine Koerner at 202–233–0069 or *koerner.elaine@epa.gov.* To request accommodation of a disability, please contact Elaine Koerner, preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: January 25, 2007.

Elaine Koerner,

Designated Federal Officer.

[FR Doc. E7–2005 Filed 2–6–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0661; FRL–8111–4]

Chloropicrin Risk Assessments (Phase 3 of 6-Phase Process) Notice of Availability; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; Extension of comment period.

SUMMARY: EPA issued a notice in the **Federal Register** of November 29, 2006 announcing the availability of EPA's human health and environmental fate and effects risk assessments and related documents for the fumigant, chloropicrin. The comment period for the notice ended on January 29, 2007. Subsequently, EPA extended the comment period until February 23, 2007. With this action, EPA is extending the comment period for an additional 5 days.

DATES: Comments, identified by Docket identification (ID) number EPA–HQ–OPP–2006–0661, must be received on or before February 28, 2007.

ADDRESSES: Follow the detailed instructions as provided under **ADDRESSES** in the **Federal Register** of November 29, 2006 (71 FR 69112).

FOR FURTHER INFORMATION CONTACT: Nathan Mottl, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: (703) 305-0208; e-mail address: *mottl.nathan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

The Agency included in the notice of availability a list of those who may be potentially affected by this action. If you have questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established a docket for this action under docket identification (ID) number EPA–HQ–OPP–2006–0061. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the Office of Pesticide Programs (OPP) Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

II. What Does this Action Do?

This notice is extending the comment period on EPA's notice of availability of human health and environmental fate and effects risk assessments and related documents for the fumigant, chloropicrin. The notice of availability was published in the **Federal Register** on November 29, 2006. The comment period for the notice of availability ended on January 29, 2007. Subsequently, EPA extended the comment period until February 23, 2007 (72 FR 3130, January 24, 2007). However, EPA had intended to give a full 90 days for those interested in commenting on these documents. Therefore, EPA is extending the comment period for an additional 5 days to allow for the full 90-day comment period. The comment period now ends on February 28, 2007.

III. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, directs that, after submission of all data concerning a pesticide active ingredient, the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration. Further provisions are made to allow a public comment period. However, the Administrator may extend the comment period, if additional time for comment is requested. In this case, several stakeholders have requested additional time to develop comments. The Agency believes that an additional 30 days is adequate.

List of Subjects

Environmental protection, Environmental Protection, Fumigants, Pesticides, and pests.

Dated: January 31, 2007.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E7–2001 Filed 2–6–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2004–0346; FRL–8111–2]

Ethofumesate; Modification and Closure of Reregistration Eligibility Decision; Notice of Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's intention to modify certain risk mitigation measures that were imposed as a result of the 2005 Reregistration Eligibility Decision (RED) for the pesticide ethofumesate, and opens a public comment period on these changes. EPA conducted this reassessment of the ethofumesate RED in response to new dermal absorption data submitted by the technical registrant, Bayer CropScience, Inc. These data allowed the Agency to modify its original assumption of 100% dermal absorption to 27% and thus modify the ethofumesate label requirements including: removing the 9-day re-entry interval for maintenance activity and adjusting the existing harvest prohibition for sod from 16 days to 3 days.

DATES: Comments must be received on or before March 9, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2004–0346, by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305-5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2004–0346. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Nathan Mottl, Special Review and Reregistration Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–0208; fax number: (703) 308–7070; e-mail address: *mottl.nathan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general, and may be of interest to a wide range of stakeholders including environmental, human health, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information subject heading, **Federal Register** date and page number.

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action is the Agency Taking?

In 2005, EPA issued a RED for ethofumesate under section 4(g)(2)(A) of FIFRA. Subsequent to publication of this RED, the technical registrant submitted additional data to further refine ethofumesate use and exposure scenarios. After receiving an acceptable dermal absorption study from Bayer CropScience, the Agency refined the existing dermal absorption assumption of 100% in the RED to 27%. Using the 27% dermal absorption assumption from the new study, the Agency recalculated the re-entry intervals (REIs) and as a result will lower the prohibition for sod harvesting at maximum application rate from 16 days to 3 days and will no longer require a re-entry interval of 9 days for turf maintenance workers. The Agency has also updated the existing ethofumesate docket with additional memoranda addressing how the Agency refined the existing RED using the dermal absorption study. The docket also includes response to comments memoranda.

All comments should be submitted using the methods in **ADDRESSES**, and must be received by EPA on or before the closing date. Comments and proposals will become part of the Agency Docket for ethofumesate. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments.

EPA will carefully consider all comments received by the closing date and will provide a Response to Comments Memorandum in the Docket and regulations.gov. If any comment significantly affects the document, EPA also will publish an amendment to the RED in the **Federal Register**. In the absence of substantive comments requiring changes, the ethofumesate RED will be implemented as it is now presented.

B. What is the Agency's Authority for Taking this Action?

Section 4(g)(2) of FIFRA as amended directs that, after submission of all data concerning a pesticide active ingredient, ''the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration,'' before calling in product specific data on individual end-use products and either reregistering products or taking other ''appropriate regulatory action.''

Section 408(q) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(q), requires EPA to review tolerances and exemptions for pesticide residues in effect as of August 2, 1996, to determine whether the tolerance or exemption meets the requirements of section 408(b)(2) or (c)(2) of FFDCA. This review was completed on August 3, 2006.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: January 30, 2007.

Peter Caulkins,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. E7–2006 Filed 2–6–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2006–0936; FRL–8111–8]

Notice of Filing of Pesticide Petitions for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment or amendment of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before March 9, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and pesticide petition number (PP), by one of the following methods:

• *Federal eRulemaking Portal*: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to the assigned docket ID number for the pesticide petition of interest. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy. Publicly available docket materials are available electronically at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: The person listed at the end of the pesticide petition summary of interest.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

• Crop production (NAICS code 111).
• Animal production (NAICS code 112).
• Food manufacturing (NAICS code 311).
• Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed at the end of the pesticide petition summary of interest.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments*. When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Docket ID Numbers

When submitting comments, please use the docket ID number assigned to the pesticide petition of interest.

PP Number	Docket ID Number
PP 1F6263	EPA–HQ–OPP–2006–0203
PP 5F4505	EPA–HQ–OPP–2006–0203
PP 5F6918	EPA–HQ–OPP–2006–0203
PP 6F4791	EPA–HQ–OPP–2006–0203
PP 6F7025	EPA–HQ–OPP–2006–0323
PP 6F7059	EPA–HQ–OPP–2006–1026
PP 6E7140	EPA–HQ–OPP–2007–0004

III. What Action is the Agency Taking?

EPA is printing a summary of each pesticide petition received under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, proposing the establishment or amendment of regulations in 40 CFR

part 180 for residues of pesticide chemicals in or on various food commodities. EPA has determined that these pesticide petitions contain data or information regarding the elements set forth in FFDCA section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of these pesticide petitions. Additional data may be needed before EPA rules on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of the petitions included in this notice, prepared by the petitioner along with a description of the analytical method available for the detection and measurement of the pesticide chemical residues is available on-line at *http://www.regulations.gov*.

A. Amendment to Existing Tolerances

1. *PP 1F6263*. (Docket ID number EPA–HQ–OPP–2006–00203). Acetochlor Registration Partnership (ARP), c/o Monsanto Company, 1300 ''I'' St., NW., Suite 450 East, Washington, DC 20005, proposes to amend the tolerances in 40 CFR 180.470(a) for residues of the herbicide acetochlor (2-chloro-2'-methyl-6-ethyl-*N*-ethoxymethylacetanilide) and its metabolites containing the ethyl methyl aniline (EMA) moiety and the hydroxyethyl methyl-aniline (HEMA) moiety, and expressed as acetochlor equivalents in or on the food commodities corn, pop, grain at 0.05 parts per million (ppm) and corn, pop, stover at 1.5 ppm.

In addition, ARP proposes to amend the tolerances in 40 CFR 180.470(d) for residues of the herbicide acetochlor (2-chloro-2'-methyl-6-ethyl-*N*-ethoxymethylacetanilide) and its metabolites containing the EMA moiety and the HEMA moiety, and expressed as acetochlor equivalents in or on the food commodities beet, sugar, root and tops/pea and bean (except soybean), dried and shelled (subgroup 6C)/potato/and sunflower, seed at 0.05 ppm; grain, cereal (except rice) (group 15) at 0.05 ppm; grain, cereal (except rice), forage/fodder/straw (group 16), forage at 0.5 ppm; grain, cereal (except rice), forage/fodder/straw (group 16), hay at 2.0 ppm; grain, cereal (except rice), forage/fodder/straw (group 16), stover at 0.1 ppm; grain, cereal (except rice), forage/fodder/straw (group 16), straw at 0.3 ppm.

Acetochlor and its metabolites are hydrolyzed to either EMA or HEMA, which are determined by high performance liquid chromatography (HPLC)/oxidative coulometric electrochemical detector (OCED) and expressed as acetochlor equivalents. The limit of quantitation (LOQ) for this method is 0.02 ppm for each analyte. Contact: Vickie Walters, telephone number: (703) 305–5704, e-mail address: *walters.vickie@epa.gov*.

2. *PP 5F4505*. (Docket ID number EPA–HQ–OPP–2006–0203). Acetochlor Registration Partnership (ARP), c/o Monsanto Company, 1300 ''I'' St., NW., Suite 450 East, Washington, DC 20005, proposes to amend the tolerance in 40 CFR 180.470(a) for residues of the herbicide acetochlor (2-chloro-2'-methyl-6-ethyl-*N*-ethoxymethylacetanilide) and its metabolites containing the EMA moiety and the HEMA moiety, and expressed as acetochlor equivalents in or on the food commodity corn, field, forage at 3.0 ppm. Acetochlor and its metabolites are hydrolyzed to either EMA or HEMA, which are determined by HPLC/OCED and expressed as acetochlor equivalents. The LOQ for this method is 0.02 ppm for each analyte. Contact: Vickie Walters, telephone number: (703) 305–5704, e-mail address: *walters.vickie@epa.gov*.

3. *PP 5F6918*. (Docket ID number EPA–HQ–OPP–2006–00203). Monsanto Company, 1300 ''I'' St., NW., Suite 450 East, Washington, DC 20005, proposes to amend the tolerances in 40 CFR 180.470(a) for residues of the herbicide acetochlor (2-chloro-2'-methyl-6-ethyl-*N*-ethoxymethylacetanilide) and its metabolites containing the EMA moiety and the HEMA moiety, and expressed as acetochlor equivalents in or on the food commodities sorghum, forage at 1.0 ppm; sorghum, grain at 0.05 ppm; and sorghum, grain, stover at 1.5 ppm. Acetochlor and its metabolites are hydrolyzed to either EMA or HEMA, which are determined by HPLC/OCED and expressed as acetochlor equivalents. The LOQ for this method is 0.02 ppm for each analyte. Contact: Vickie Walters, telephone number: (703) 305–5704, e-mail address: *walters.vickie@epa.gov*.

4. *PP 6F4791*. (Docket ID number EPA–HQ–OPP–2006–00203). Acetochlor Registration Partnership (ARP), c/o Monsanto Company, 1300 ''I'' St., NW., Suite 450 East, Washington, DC 20005, proposes to amend the tolerances in 40 CFR 180.470(a) for residues of the herbicide acetochlor (2-chloro-2'-methyl-6-ethyl-*N*-ethoxymethylacetanilide) and its metabolites containing the EMA moiety and the HEMA moiety, and expressed as acetochlor equivalents in or on the food commodities corn, sweet, fodder and forage at 1.5 ppm; and corn, sweet, kernels plus cob with husks removed at 0.05 ppm.

In addition, ARP proposes to amend the tolerances in 40 CFR 180.470(d) for residues of the herbicide acetochlor (2-chloro-2'-methyl-6-ethyl-*N*-ethoxymethylacetanilide) and its metabolites containing the EMA moiety and the HEMA moiety, and expressed as acetochlor equivalents in or on the food commodities non-grass animal feeds (group 18) forage at 1.3 ppm and non-grass animal feeds (group 18), hay at 3.5 ppm.

Acetochlor and its metabolites are hydrolyzed to either EMA or HEMA, which are determined by HPLC/OCED and expressed as acetochlor equivalents. The LOQ for this method is 0.02 ppm for each analyte. Contact: Vickie Walters, telephone number: (703) 305–5704, e-mail address: *walters.vickie@epa.gov*.

5. *PP 6F7025*. (Docket ID number EPA–HQ–OPP–2006–00323). Dow AgroSciences LLC, 9330 Zionsville Rd., Indianapolis, IN 46268, proposes to amend the tolerances in 40 CFR 180.364(a) by adding glyphosate dimethylammonium salt or dimethalamine (DMA) salt of glyphosate (n-phosphonomethyl)glycine resulting from the application of glyphosate and the isopropylamine salt of glyphosate, ethanolamine salt of glyphosate, and the ammonium potassium salt of glyphosate. Adequate enforcement methods include gas liquid chromatography (GLC), HPLC, and gas chromatography/mass spectrometry (GS/MS). The limit of detection is 0.05 ppm. Contact: Vickie Walters, telephone number: (703) 305–5704, e-mail address: *walters.vickie@epa.gov*.

B. New Tolerances

1. *PP 6F7059*. (Docket ID number EPA–HQ–OPP–2006–1026). Bayer CropScience LLC, 2 T.W. Alexander Dr., Research Triangle Park, NC 27709, proposes to establish a tolerance for residues of the herbicide pyrasulfotole (AE 0317309) (5-hydroxy-1,3-dimethyl-1H-pyrazol-4-yl)[2-(methylsulfonyl)-4-(trifluoromethyl)phenyl] methanone and its metabolite (5-hydroxy-3-methyl-1H-pyrazol-4-yl)[2-(methylsulfonyl)-4-(trifluoromethyl)phenyl] methanone in or on food commodities barley/oat/rye/triticale/wheat, grain at 0.07 ppm; barley/oat/rye/wheat, straw and oat/rye/wheat, forage at 0.25 ppm; barley/oat/wheat, hay at 0.8 ppm; wheat, aspirated grain fractions at 1.4 ppm; and pyrasulfotole (AE 0317309) in or on cattle/goat/hog/horse/sheep, meat and fat at 0.01 ppm; cattle/goat/hog/horse/sheep, meat byproducts at 0.3 ppm; and milk at 0.005 ppm. The analytical method is a liquid chromatography/mass spectrometry/mass spectrometry (LC/MS/MS) method which quantifies AE 0317309 and its metabolite with a

LOQ of 0.01 milligram/kilogram (mg/kg). Contact: Tracy White, telephone number: (703) 308–0042, e-mail address: *white.tracy@epa.gov*.

2. *PP 6E7140*. (Docket ID number EPA–HQ–OPP–2007–0004). Interregional Research Project Number 4 (IR7ndash;4), 500 College Rd. East, Suite 201 W, Princeton, NJ 05840, proposes to establish tolerances for residues of the insecticide deltamethrin ((1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (*S*)-*alpha*-cyano-3-phenoxybenzyl ester) and its major metabolites, *trans* deltamethrin ((*S*)-*alpha*-cyano-*m*-phenoxybenzyl-(1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate) and *alpha-R*-deltamethrin ((*R*)-*alpha*-cyano-*m*-phenoxybenzyl-(1*R*,3*R*)-3-(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylate) in or on food commodities flax, seed at 0.1 ppm; and flax, meal at 0.3 ppm. The independently validated analytical methods are based on GLC equipped with an electron capture detector (ECD) and a DB-1 (or equivalent) capillary column, and are used for the determination of *cis*-deltamethrin, *trans*-deltamethrin, and *alpha-R*-deltamethrin in various raw agricultural, animal derived, and processed commodities. Contact: Shaja R. Brothers, telephone number: (703) 308–3194, e-mail address: *brothers.shaja@epa.gov*.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: January 29, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E7–2002 Filed 2–6–07; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–0028; FRL–8112–4]

Quinoclamine; Receipt of Application for Emergency Exemption, Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Oregon Department of Agriculture to use the pesticide quinoclamine (CAS No. 2797–51–5) to treat up to 600 acres of ornamental plants grown in containers in commercial greenhouses to control liverwort. The Applicant proposes the use of a new chemical which has not been registered by the EPA. EPA is soliciting public comment before making the decision whether or not to grant the exemption.

DATES: Comments must be received on or before February 22, 2007.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–0028, by one of the following methods:

• Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the on-line instructions for submitting comments.

• *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001.

• *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket telephone number is (703) 305-5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2007–0028. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The Federal regulations.gov website is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the docket index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S-4400, One Potomac Yard (South Building), 2777 S. Crystal Drive, Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket telephone number is (703) 305-5805.

FOR FURTHER INFORMATION CONTACT: Andrea Conrath, Registration Division 7505P, Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460-0001; telephone number: 703-308-9356; fax number: 703-305-0599; e-mail address: *conrath.andrea@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected entities may include, but are not limited to:

• Crop production (NAICS code 111).

• Animal production (NAICS code 112).

• Food manufacturing (NAICS code 311).

• Pesticide manufacturing (NAICS code 32532).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether

you or your business may be affected by this action, you should carefully examine the applicability provisions in Unit II. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through www.regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI). In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

What Action is the Agency Taking?

Under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), at the discretion of the Administrator, a Federal or State agency may be exempted from any provision of FIFRA if the Administrator determines that emergency conditions exist which require the exemption. The Oregon Department of Agriculture has requested the Administrator to issue a specific exemption for the use of quinoclamine on greenhouse ornamentals to control liverwort. Information in accordance with 40 CFR part 166 was submitted as part of this request.

As part of this request, the Applicant asserts that liverwort infestations are becoming more severe in Oregon, resulting in crop losses and difficulty for many operations to grow their crop successfully. Entire crops can be rejected due to suspicion that liverwort spores are infesting the crop. There are currently no chemical controls registered for this use, and the Applicant asserts that quinoclamine can reliably remove liverwort and its propagules from a containerized plant. Economic losses can occur due to the following:

1. The excessive costs for hand weeding,

2. Failure of plants to grow or thrive, and

3. Losses from reduced quality or outright rejection of crops sold from one nursery to another. The Applicant states that significant economic losses will be suffered without the requested use.

The Applicant proposes to make no more than 4 applications of quinoclamine, on up to 600 acres of greenhouse area in the state of Oregon. The use would potentially occur year-round, and a total of up to 65,400 lbs. of formulated product (16,350 lb. active ingredient) could be used under this exemption, if authorized.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 of FIFRA require publication of a notice of receipt of an application for a specific exemption proposing use of a new chemical (i.e., an active ingredient) which has not been registered by the EPA. The notice provides an opportunity for public comment on the application.

The Agency, will review and consider all comments received during the comment period in determining whether to issue the specific exemption requested by the Oregon Department of Agriculture.

List of Subjects

Environmental protection, Pesticides and pests.

Dated: January 24, 2007.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E7–1733 Filed 2–6–07; 8:45 am]

BILLING CODE 6560–50–S

EXPORT-IMPORT BANK

[Public Notice 97]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Export-Import Bank of the U.S.

ACTION: Notice and request for comments.

SUMMARY: The Export-Import Bank, as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments should be received on or before April 9, 2007 to be assured of consideration.

ADDRESSES: Direct all comments and requests for additional information to Solomon Bush, Export-Import Bank of the U.S., 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565–3353, *solomon.bush@exim.gov.*

SUPPLEMENTARY INFORMATION:

Titles and Form Numbers:

Application for Letter of Credit Insurance Policy, EIB 92–34.

Beneficiary Certificate and Agreement, EIB 92–37.

Short-Term Multi-Buyer Export Credit Insurance Policy Application, EIB 92–50.

Broker Registration Form, EIB 92–79.

OMB Number: 3048–0009.

Type of Review: Extension of expiration date.

Need and Use: The information requested enables the applicant to provide Ex-Im Bank with the information necessary to obtain legislatively required assurance of repayment and fulfills other statutory requirements. The forms encompass a variety of export credit insurance policies.

Affected Public: The forms affect all entities involved in the export of U.S. goods and services, including exporters, banks, insurance brokers and non-profit or state and local governments acting as facilitators.

	EIB 92–34	EIB 92–37	EIB 92–50	EIB 92–79
Estimated annual respondents	10	10	368	50.
Estimated time per respondent	1 Hour	20 Minutes	1 Hour	2 Hours.
Estimated annual burden	10 Hours	3.3 Hours	368 Hours	100 Hours.
Frequency of reporting or use	Applications submitted one time.			

Dated: February 1, 2007.

Solomon Bush,

Agency Clearance Officer.

[FR Doc. 07–539 Filed 2–6–07; 8:45 am]

BILLING CODE 6690–01–M

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

January 29, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before March 9, 2007. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Allison E. Zaleski, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–6466, or via fax at (202) 395–5167 or via Internet at *Allison_E._Zaleski@eop.omb.gov* and to *Leslie F. Smith@fcc.gov,* Federal Communications Commission, Room 1–C216, 445 12th Street, SW., Washington, DC 20554, or an e-mail to *PRA@fcc.gov.* If you would like to obtain or view a copy of this information collection, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Leslie F. Smith at (202) 418–0217 or via the Internet at *Leslie.Smith@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0758.

Title: Amendment of Part 5 of the Commission's Rules to Revise the Experimental Radio Service Regulations.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions, and Individuals or household.

Number of Respondents: 428.

Estimated Time per Response: 0.10 to 0.25 hours.

Frequency of Response: Third party disclosure.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 681 hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: There is no need for confidentiality, except for personally identifiable information individuals may submit, which is covered by a system of records, FCC/OET–1, ''Experimental Radio Station License Files.''

Privacy Act Impact Assessment: No.

Needs and Uses: Under 47 CFR part 5 of the FCC's Rules governing the Experimental Radio Service: (1) Pursuant to section 5.55(c), each application for experimental radio authorization shall be specific and complete with regard to—station location, proposed equipment, power, antenna height, and operating frequency; and other information required by the application form and the rules; (2) pursuant to section 5.61(c), an application for experimental special temporary authority shall contain—Name, address, phone number of the applicant, description of why the STA is needed, description of the operation to be conducted and its purpose, time and dates of proposed operation, classes of station and call sign, description of the location, equipment to be used, frequency desired, power desired, and antenna height information; (3) pursuant to Section 5.75, if a blanket license is granted, licensees are required to notify the Commission of the specific details of each individual experiment, including location, number of base and mobile units, power, emission designator, and any other pertinent technical information not specified by the blanket license; (4) pursuant to Section 5.85(d), when applicants are using public safety frequencies to perform experiments of a public safety nature, the license may be conditioned to require coordination between the experimental licensee and appropriate frequency coordinator and/or all public safety licensees in its area of operation; (5) pursuant to Section 5.85(e), the Commission may, at its discretion, condition any experimental license or special temporary authority (STA) on the requirement that before commencing operation, the new licensee coordinate its proposed facility with other licensees that may receive interference as a result of the new licensee's operations; and (6) pursuant to Section 5.93(b), unless otherwise stated in the instrument of authorization, a license granted for the purpose of limited market studies requires the licensee to inform anyone participating in the experiment that the service or device is granted under an experimental authorization and is strictly temporary. In all cases, it is the responsibility of the licensee to coordinate with other users.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–1796 Filed 2–6–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

January 29, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 9, 2007. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Allison E. Zaleski, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–6466, or via fax at 202–395–5167 or via Internet at *Allison_E._Zaleski@omb.eop.gov* and to *Judith-B. Herman@fcc.gov,* Federal Communications Commission, Room 1–B441, 445 12th Street, SW., DC 20554 or an e-mail to *PRA@fcc.gov.* If you would like to obtain or view a copy of this information collection after the 60 day comment period, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0999.

Title: Exemption of Public Mobile Service Phones from the Hearing Aid Compatibility Act.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 965 respondents; 1,930 responses.

Estimated Time Per Response: 2–4 hours.

Frequency of Response: Annual, semi-annual and biennial reporting requirements and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 16,229 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: In submitting the information requested in the reports, respondents might need to disclose confidential information to satisfy the requirements. However, covered entities would be free to request that such materials submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this information collection to OMB as an extension after this 60 day comment period to obtain the full three-year clearance from them. There is no change in the number of respondents and burden hours.

Commission rules require digital wireless phone manufacturers and service providers to make available a certain number of digital wireless phones that meet specific performance levels set forth in an established technical standard. The phones must be made available according to an implementation schedule specified in Commission rules. To monitor the progress of implementation, digital phone manufacturers and service providers must submit reports every six months during the first three years of implementation, and then annually thereafter through the fifth year of implementation.

OMB Control Number: 3060–0261.

Title: Section 90.215, Transmitter Measurements.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 191,698 respondents; 450,754 responses.

Estimated Time Per Response: .033 minutes.

Frequency of Response: Recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 49,583 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: Respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this information collection to OMB as an extension after this 60 day comment period to obtain the full three-year clearance from them. Section 90.215 requires station licensees to measure the carrier frequency, output power, and modulation of each transmitter authorized to operate with power in excess of two watts when the transmitter is initially installed and when any changes are made which would likely affect the modulation characteristics. Such measurements, which help ensure proper operation of transmitters, are to be made by a qualified engineering measurement service, and are required to be retained in the station records, along with the name and address of the engineering measurement service, and the person making the measurements. The information is normally used by the licensee to ensure that equipment is operating within prescribed tolerances. Prior technical operation of transmitters helps limit interference to other users and provides the licensee with the maximum possible utilization of equipment.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–1798 Filed 2–6–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

January 30, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this

opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 9, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit your all Paperwork Reduction Act (PRA) comments by e-mail or U.S. postal mail. To submit your comments by e-mail send them to *PRA@fcc.gov*. To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0320.

Title: Section 73.1350, Transmission System Operation.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; Not-for-profit institutions.

Number of Respondents: 505.

Estimated Time per Response: 0.5 hours.

Frequency of Response: On occasion reporting requirement.

Total Annual Burden: 253 hours.

Total Annual Cost: None.

Privacy Impact Assessment: No impact(s).

Nature of Response: Required to obtain or retain benefits.

Confidentiality: No need for confidentiality required.

Needs and Uses: 47 CFR 73.1350(g) requires licensees to submit a ''letter of notification'' to the FCC in Washington, DC, Attention: Audio Division (radio) or Video Division (television), Media Bureau, whenever a transmission system control point is established at a location other than at the main studio or transmitter within three days of the initial use of that point. The letter should include a list of all control points in use for clarity. This notification is not required if responsible station personnel can be contacted at the transmitter or studio site during hours of operation.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–1799 Filed 2–6–07; 8:45 am]

BILLING CODE 6712–10–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

January 26, 2007

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments by April 9, 2007. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Allison E. Zaleski, Office of Management and Budget (OMB), Room 10236 NEOB, Washington, DC 20503, (202) 395–6466, or via fax at 202–395–5167, or via the Internet at *Allison_E._Zaleski@omb.eop.gov* and to *Judith-B.Herman@fcc.gov,* Federal Communications Commission (FCC), Room 1–B441, 445 12th Street, SW., Washington, DC 20554. To submit your comments by e-mail send them to: *PRA@fcc.gov.* If you would like to obtain or view a copy of this information collection after the 60 day comment period, you may do so by visiting the FCC PRA Web page at: *http://www.fcc.gov/omd/pra.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s) send an e-mail to *PRA@fcc.gov* or contact Judith B. Herman at 202–418–0214.

SUPPLEMENTARY INFORMATION:

OMB Control No.: 3060–0106.

Title: Part 43—Reporting Requirements for the U.S. Providers of International Telecommunications Services and Affiliates.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 134 respondents; 134 responses.

Estimated Time Per Response: 18 hours.

Frequency of Response: On occasion, annual and quarterly reporting requirements.

Nature of Response: Mandatory.

Total Annual Burden: 2,412 hours.

Annual Cost Burden: $216,524.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: Pursuant to Section 43.61(b), carriers file their quarterly traffic and revenue reports with the Commission on a confidential basis. Except for sections 43.61(b) and 43.61(c), the Commission generally treated the information submitted pursuant to Section 43.61 as non-confidential. However, the Commission allowed carriers to request proprietary treatment for specific pieces of information, such as information on

transit traffic. The Commission has granted carriers confidential treatment for circuit-status information submitted under section 43.82. The Commission proposes to continue its policy of making the carriers' annual traffic and revenue data available to the public. In the interest of public access to information, even where the Commission grants a request to keep a particular piece of information confidential, the agency proposes to include that information in the industry-wide totals it compiles in the annual International Telecommunications Data Reports.

Needs and Uses: This collection will be submitted as an extension (no change in reporting requirements and/or recordkeeping requirements) after this 60 day comment period to Office of Management and Budget (OMB) in order to obtain the full three year clearance. There is no change in respondents, burden hours or annual costs.

The reporting requirements included under this OMB Control Number 3060–0106 enables the Commission to analyze the U.S. international telecommunications market, track market developments, and to determine the competitiveness of each service and geographical market. If the information collection was not conducted or was conducted less frequently, the Commission would not be able to ensure compliance with its international rules and policies. The agency would not be able to comply with the international regulations stated in the World Trade Organization (WTO) Basic Telecom Agreement.

OMB Control No.: 3060–0295.

Title: Section 90.607(a)(1) and (b)(1), Supplemental Information to be Furnished by Applicants for Facilities Under this Subpart.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 28,593 respondents; 28,593 responses.

Estimated Time Per Response: .25 minutes.

Frequency of Response: On occasion reporting requirement.

Nature of Response: Required to obtain or retain benefits.

Total Annual Burden: 2,383 hours.

Annual Cost Burden: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: This collection will be submitted as an extension (no change in reporting requirements and/or recordkeeping requirements) after this 60 day comment period to Office of Management and Budget (OMB) in order to obtain the full three year clearance.

This rule section requires the affected applicants to submit a list of any radio facilities they hold within 40 miles of the base station transmitter site being applied for. This information is used to determine if an applicant's proposed system is necessary in light of communications facilities it already owns. Such a determination helps the Commission to equitably distribute limited spectrum and prevents spectrum warehousing.

OMB Control No.: 3060–0411.

Title: Procedures for Formal Complaints Filed Against Common Carriers.

Form No.: FCC Form 485.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for profit institutions, Federal Government, State, Local or Tribal government.

Number of Respondents: 41 respondents; 41 responses.

Estimated Time Per Response: .5–12 hours.

Frequency of Response: On occasion reporting requirements, third party disclosure requirement and recordkeeping requirement.

Nature of Response: Required to obtain or retain benefits.

Total Annual Burden: 1,660 hours.

Annual Cost Burden: $2,260,100.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: Section 1.731 provides for confidential treatment of materials disclosed or exchanged during the course of formal complaint proceedings when those materials have been identified by the disclosing party as proprietary or confidential. In the rare case in which a producing party believes that Section 1.731 will not provide adequate protection for its asserted confidential material, it may request either that the opposing party consent to greater protection, or that the staff supervising the proceeding order greater protection.

Needs and Uses: This collection will be submitted as an extension (no change in reporting requirements and/or recordkeeping requirements) after this 60 day comment period to Office of Management and Budget (OMB) in order to obtain the full three year clearance.

Sections 206 through 209 of the Communications Act of 1934, as amended (''the Act''), provide the statutory framework for the Commission's rules for resolving formal complaints against common carriers. Section 208(a) authorizes complaints by any person ''complaining of anything done or omitted to be done by any common carrier'' subject to the provision of the Act. Section 208(a) states that if a carrier does not satisfy a complaint or there appears to be any reasonable ground for investigating the complaint, the Commission shall ''investigate the matters complained of in such manner and by such means as it shall deem proper.'' Certain categories of complaints are subject to a statutory deadline for resolution. See, e.g., 47 U.S.C. 208(b)(1) (imposing a five-month deadline for complaints challenging the ''lawfulness of a charge, classification, regulation, or practice''); 47 U.S.C. 271(d)(6) (imposing a 90-day deadline for complaints alleging that a Bell Operating Company (BOC) has ceased to meet conditions imposed in connection with approval to provide in-region interLATA services.)

Formal complaint proceedings before the Commission are similar to civil litigation in federal district court. In fact, under section 207 of the Act, a party claiming to be damaged by a common carrier, may file its complaint with the Commission or in any district court of the United States, ''but such person shall not have the right to pursue both such remedies'' (47 U.S.C. 207). The Commission has promulgated rules (the ''Formal Complaint Rules'') to govern its formal complaint proceedings that are similar in many respects to the Federal Rules of Civil Procedure. See 47 CFR 1.720–1.736. These rules require the submission of information from the parties necessary to create a record on which the Commission can decide complex legal and factual issues. As described in Section 1.720 of the Commission's rules, formal complaint proceedings are resolved on a written record consisting of a complaint, answer or response, and joint statement of stipulated facts, disputed facts and key legal issues, along with all associated affidavits, exhibits and other attachments.

This collection of information includes the process for submitting a formal complaint. The Commission uses this information to determine the sufficiency of complaints and to resolve the merits of disputes between the parties. Orders issued by the Commission in formal complaint proceedings are based upon evidence and argument produced by the parties in accordance with the Formal Complaint Rules. If the information were not collected, the Commission would not be able to resolve common carrier-related complaint proceedings, as required by Section 208 of the Act.

OMB Control No.: 3060–0572.

Title: Filing Manual for Annual International Circuit Status Reports.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 138 respondents; 138 responses.

Estimated Time Per Response: 11 hours.

Frequency of Response: Annual reporting requirement.

Nature of Response: Mandatory.

Total Annual Burden: 1,300 hours.

Annual Cost Burden: $46,000.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: At present, the Commission does not provide any assurance of confidentiality to carriers. However, the Commission is seeking comment on whether the circuit-status information the carriers submit under section 43.82 continues to be competitively sensitive or whether the carriers' circuit-status information could also be made available to the public. Carriers that want continued confidential treatment for this information should address why the information is competitively sensitive. It is possible that information that is competitively sensitive when it is submitted would not continue to be sensitive after time has passed. The agency is requesting that carriers comment on whether the circuit-status information could be released after one year or after two years.

Needs and Uses: This collection will be submitted as an extension (no change in reporting requirements and/or recordkeeping requirements) after this 60 day comment period to Office of Management and Budget (OMB) in order to obtain the full three year clearance. There is no change in respondents, burden hours or annual costs.

U.S. international carriers are required to file circuit-status reports with the Commission annually in compliance with Section 43.82 of the Commission's rules. The reports provide the Commission, the carriers, and others about information on how U.S. international carriers use their circuits. The Commission uses the information from the circuit-status reports to ensure that carriers with market power to not use their access to circuit capability to engage in any anti-competitive behavior. Additionally, the Commission uses the reports to implement the requirement in Section 9 of the Communications Act of 1934, as amended, that carriers pay annual regulatory fees for each of the bearer circuits they own.

Without this information, the Commission's efforts to achieve a more competitive international telecommunications marketplace will be impeded. Furthermore, the Commission would not have the information necessary to comply with its statutory requirements under the Omnibus Budget Reconciliation Act of 1993. Congress mandated the Commission to collect annual regulatory fees on active equivalent 64 kilobits international circuits. Without such information, the Commission would not be able to fulfill its statutory obligation.

OMB Control No.: 3060–0625.

Title: Part 24—Personal Communications Services—Narrowband PCS.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or household, business or other for-profit, not-for profit institutions, and state, local and tribal government.

Number of Respondents: 13 respondents; 117 responses.

Estimated Time Per Response: 3 hours.

Frequency of Response: On occasion reporting requirements and recordkeeping requirement.

Nature of Response: Required to obtain or retain benefits.

Total Annual Burden: 131 hours.

Annual Cost Burden: $53,000.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: This collection will be submitted as an extension (no change in reporting requirements and/or recordkeeping requirements) after this 60 day comment period to Office of Management and Budget (OMB) in order to obtain the full three year clearance. There is no change in respondents, burden hours or annual costs.

Section 24.103 requires that certain narrowband PCS licensees to notify Commission at specific benchmarks that are in compliance with construction requirements in order to ensure that licensees quickly construct their systems and provide substantial service to licensed areas. Further, the reporting and recordkeeping requirements under this section will be used to satisfy the Commission's rule that licensees prove that they have established ''substantial service'' within the 5 and 10 year benchmarks established upon the grant date of each license. Without this information, the Commission would not be able to carry out its statutory responsibilities.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–1800 Filed 2–6–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

January 30, 2007.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before March 9, 2007. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Allison E. Zaleski, Office of Management and Budget, Room 10236 NEOB, Washington, DC 20503, (202) 395–6466, or via fax at 202–395–5167 or via Internet at *Allison_E._Zaleski@.omb.eop.gov* and to *Judith-B.Herman@fcc.gov*, Federal Communications Commission, Room 1–B441, 445 12th Street, SW., Washington, DC 20554 or send an e-mail to *PRA@fcc.gov*. If you would like to

obtain or view a copy of this information collection, you may do so by visiting the FCC PRA web page at: *http://www.fcc.gov/omd/pra*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0678.

Title: Part 25 of the Commission's Rules Governing the Licensing of, and Spectrum Usage by, Satellite Network Stations and Space Stations.

Form No.: FCC Form 312, Schedule S.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 3,462 respondents; 3,462 responses.

Estimated Time Per Response: 12 hours (average).

Frequency of Response: On occasion and annual reporting requirements and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 42,116 hours.

Total Annual Cost: $613,719,126.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this information collection to OMB as a revision during this comment period to obtain the full 3-year clearance from them. The Commission has revised this collection since it was last submitted to OMB. The Commission on its own motion, proposes to revise this collection to add a section to the FCC Form 312 which will enable satellite applicants to certify whether or not they are subject to geographic service or geographic coverage requirements and whether they will comply with those requirements. The Commission amended the FCC Form 312 in order to make it easier to ensure that applicants will comply with the geographic service rules and/or geographic coverage requirements contained in Part 25 of the Commission's rules. Without such information, the Commission could not determine whether to permit respondents to provide telecommunications services in the United States. Therefore, the Commission would be unable to fulfill its statutory responsibilities in accordance with the Communications Act of 1934, as amended, and the obligations imposed on parties to the WTO Basic Telecom Agreement.

OMB Control Number: 3060–1048.

Title: Section 1.929(c)(1), Composite Interference Contour (CIC).

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 50 respondents; 50 responses.

Estimated Time Per Response: 2 hours.

Frequency of Response: On occasion reporting requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 100 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: The Commission will submit this information collection to OMB as a revision during this comment period to obtain the full 3-year clearance from them.

The Commission has revised this collection since it was last submitted to OMB. On February 22, 2005, the Commission released a Report and Order in WT Docket No. 03–103 (70 FR 19293), which amended this section to specify that expansion of a composite interference contour (CIC) of a site-based licensee in the Paging and Radiotelephone Service—as well as the Rural Radiotelephone Service and 800 MHz Specialized Mobile Radio Service—over water on a secondary, non-interference basis should be classified as a minor (rather than a major) modification of a license. Such reclassification has eliminated the filing requirements associated with these license modifications, but requires site-based licensees to provide the geographic area licensee (on the same frequency) with the technical and engineering information necessary to evaluate the site-based licensee's operations over water. The purpose of this collection is to enable the geographic licensee to have technical and engineering information regarding a site-based licensee's operation over water in order to guard against unacceptable interference to its own operation(s).

OMB Control Number: 3060–0496.

Title: The ARMIS Operating Data Report.

Report No.: FCC Report 43–08.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 56 respondents; 56 responses.

Estimated Time Per Response: 139 hours.

Frequency of Response: Annual reporting requirement.

Obligation to Respond: Mandatory.

Total Annual Burden: 7,784 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: Ordinarily questions of a sensitive nature are not involved in the ARMIS Operating Data Report. The Commission contends that areas in which detailed information is required are fully subject to regulation and the issue of data being regarded as sensitive will arise in special circumstances only. In such circumstances, the respondent is instructed on the appropriate procedures to follow and safeguard sensitive data. Commission rules 47 CFR 0.459 contain the procedures for requesting confidential treatment of data.

Needs and Uses: The Commission will submit this information collection to OMB as an extension during this comment period to obtain the full 3-year clearance from them. There is no change in the number of respondents and/or burden hours.

ARMIS Report 43–08 monitors network growth, usage, and reliability. Section 43.21 of the Commission's rules details that requirement. The Automated Reporting Management Information System (ARMIS) was implemented to facilitate the timely and efficient analysis of revenue requirements, rates of return and price caps; to provide an improved basis for audits and other oversight functions; and to enhance the Commission's ability to quantify the effects of alternative policy.

OMB Control Number: 3060–0798.

Title: FCC Application for Wireless Telecommunications Bureau Radio Service Authorization.

Form No.: FCC Form 601.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or household, business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 250,920 respondents; 250,920 responses.

Estimated Time Per Response: .50–1.25 hours.

Frequency of Response: On occasion and every 10 year reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 219,505 hours.

Total Annual Cost: $50,144,000.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: Respondents may request materials or information submitted to the Commission be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this information collection to OMB as an extension during this comment period to obtain the full 3-year clearance from them. There is no change in the number of respondents, burden hours and/or annual costs.

The FCC Form 601 is a consolidated, multi-part application form, or ''long form'', that is used for general market-based licensing and site-by-site licensing for wireless telecommunications and public safety services filed through the Commission's Universal Licensing System (ULS). FCC Form 601 is composed of a main form that contains the administrative information and a series of schedules used for filing technical and other information. Respondents are encouraged to submit FCC Form 601 electronically and are required to do so when submitting FCC Form 601 to apply for an authorization for which the applicant was the winning bidder in a spectrum auction. The data collected on the FCC Form 601 include the FCC Registration Number (FRN), which serves as a ''common link'' for all filings an entity has with the Commission. The Debt Collection Improvement Act of 1996 requires that those entities filing with the Commission use a FRN.

OMB Control Number: 3060–1044.

Title: Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket No. 01–338 and WC Docket No. 04–313, FCC 04–290, Order on Remand.

Form No.: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and state, local or tribal government.

Number of Respondents: 645 respondents; 645 responses.

Estimated Time Per Response: 8 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 5,160 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit or disclose confidential information. However, in certain circumstances, respondents may voluntarily choose to submit confidential information pursuant to applicable confidentiality rules, 47 CFR 0.459.

Needs and Uses: The Commission will submit this information collection to OMB as a revision during this comment period to obtain the full three-year clearance from them. The Commission has revised this collection since it was last submitted to OMB.

In the Order on Remand (FCC 04–290), the Commission responded to a decision by the United States Court of Appeals for the District of Columbia that vacated the ''sub-delegation'' of authority to state commissions and vacated and remanded certain nationwide impairment findings, including mass market switching and dedicated transport.

In the Order, the Commission adopted three specific service eligibility criteria for access to enhanced extended links (EELs), which are important to assure that requesting carriers may not obtain EELs if they do not provide services that qualify for unbundled network elements (UNEs) under the Commission's rules. The Order requires carriers to collect certain data regarding usage of local telephone networks, and includes the possibility of audits by the incumbent carrier. Under the first of the three EELs eligibility criteria, each carrier must have a state certification of authority to provide local voice service. Second, each carrier must have at least one local number assigned to each circuit and must provide 911 or E911 capability to each circuit, in order to demonstrate actual provision of local voice service. Third, each carrier must satisfy circuit-specific architectural safeguards. Carriers requesting EELs also must certify that they satisfy each criterion, subject to an incumbent local exchange carrier's (LECs) limited right to obtain an annual independent audit of the requesting carrier.

The Commission has revised this information collection to eliminate the state commission UNE proceeding requirement from the collection due to the Order on Remand. This has resulted in a −68,690 burden hours and −$5,275,000 in annual costs.

OMB Control Number: 3060–0942.

Title: Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long Distance Users, Federal-State Joint Board on Universal Service.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 759 respondents; 3,241 responses.

Estimated Time Per Response: 5–60 hours (average).

Frequency of Response: On occasion, quarterly and annual reporting requirements, recordkeeping requirement and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 21,321 hours.

Total Annual Cost: N/A.

Privacy Act Impact Assessment: N/A.

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information to the Commission or to USAC. If the Commission requests respondents to submit information to the Commission that the respondents believe are confidential, respondents may request confidential treatment of such information pursuant to 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission will submit this information collection to OMB as an extension during this comment period to obtain the full three-year clearance from them. In 2000, the Commission adopted an integrated interstate access reform and universal service proposal put forth by the members of the Coalition for Affordable Local and Long Distance Service (CALLS). The Commission requires the following information to be reported to the following entities under the CALLS proposal: (a) Tariff filing; (b) quarterly and annual data filings; and (c) cost support filings. The Commission and USAC (administrator) uses the information to ensure compliance with the interstate access reforms of the CALLS proposal, or uses the line count and other information filed by price cap and competitive LECs to determine, on a per-line basis, the amount that the carrier receives from the interstate access universal services support mechanism; or to implement requirements of section 201(b) of the Communications Act.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–1992 Filed 2–6–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collections to be submitted to OMB for review and approval; comment request.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below. The collection would provide information on the features and effects of overdraft protection programs in State nonmember financial institutions.

DATES: Comments must be submitted on or before March 9, 2007.

ADDRESSES: Interested parties are invited to submit written comments by mail to Steve Hanft, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429; by fax to Mr. Hanft at (202) 898–8788; or by e-mail to *comments@fdic.gov.* All comments should refer to ''Study of Overdraft Protection Programs.'' Copies of comments may also be submitted to the OMB desk officer for the FDIC, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Interested members of the public may obtain additional information about the collection, including a copy of the proposed collection and related instructions without charge, by contacting Steve Hanft at the address identified above.

SUPPLEMENTARY INFORMATION: Proposal to seek OMB approval for the following new collection of information:

Title: Study of Overdraft Protection Programs.

OMB Number: New collection (3064–xxxx).

Frequency of Response: One-time.

Affected Public: State nonmember financial institutions and data service providers.

Estimated Number of Respondents: 500.

Estimated time per response: Survey questions: approximate average of 3 hours per respondent. Micro-data collection: approximate range of 40 to 100 hours per respondent, with an estimated average of 80 hours.

Estimated Total Annual Burden:

Survey questions: 500 respondents times 3 hours per = 1,500 hours.

Micro-data collection: 100 respondents (financial institutions and/or service providers) times the estimated average of 80 hours = 8,000 hours.

Total burden = 1,500 + 8,000 = 9,500 hours.

General Description of Collection: The FDIC is planning a study of the overdraft protection products offered by financial institutions and the usage patterns among depositors in those institutions. The study requires collection of data from financial institutions that are not currently included in the Call Reports or other standard periodic regulatory reports. These data will be collected in two parts: a survey in which a sample of 500 state-chartered nonmember financial institutions will be asked up to 88 questions about each type of overdraft policy that they implement, and an additional micro-data collection in which more detailed information will be collected from up to 100 of these institutions. To minimize burden on respondents, the FDIC will use automated data collection techniques wherever possible. The data collection conforms to privacy rules and will not request any information that could be used to identify individual bank customers, such as name, address, or account number. All data from, and identities of, the financial institutions will remain confidential. It is the intent of the FDIC to publish only general findings from the data collection.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start up costs, and costs of operation, maintenance and purchase of services to provide the information.

Dated at Washington, DC, this 1st day of February, 2007.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. E7–1925 Filed 2–6–07; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202–523–5793 or *tradeanalysis@fmc.gov*).

Agreement No.: 011409–014.

Title: Transpacific Carrier Services Inc. Agreement.

Parties: American President Lines, Ltd./APL Co. Pte Ltd.; CMA CGM, S.A.; China Shipping Container Lines Co., Ltd.; COSCO Container Lines Co., Ltd.; Evergreen Marine Corporation; Hanjin Shipping Co., Ltd.; Hapag-Lloyd AG; Hyundai Merchant Marine Co., Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha, Ltd.; Orient Overseas Container Line Limited; and Yang Ming Marine Transport Corp.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment would substitute COSCO Container Lines (Hong Kong) Co., Limited, for COSCO Container Lines Co., Ltd. and update COSCO's address. The parties request expedited review.

Agreement No.: 011547–023.

Title: Eastern Mediterranean Discussion Agreement.

Parties: COSCO Container Lines Co. Ltd.; China Shipping Container Lines Co., Ltd.; and Zim Integrated Shipping Services, Ltd.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment would substitute COSCO Container Lines (Hong Kong) Co., Limited, for COSCO Container Lines Co., Ltd. and update COSCO's address. The parties request expedited review.

Agreement No.: 011679–007.

Title: ASF/SERC Agreement.

Parties: American President Lines, Ltd./APL Co. Pte Ltd.; ANL Singapore Pte Ltd.; China Shipping (Group) Company/China Shipping Container

Lines, Co. Ltd.; COSCO Container Lines, Ltd.; Evergreen Marine Corp. (Taiwan) Ltd.; Hanjin Shipping Co., Ltd.; Hyundai Merchant Marine Co., Ltd.; Kawasaki Kisen Kaisha, Ltd.; Mitsui O.S.K. Lines, Ltd.; Nippon Yusen Kaisha; Orient Overseas Container Line Ltd.; Sinotrans Container Lines Co., Ltd.; Wan Hai Lines Ltd.; and Yang Ming Marine Transport Corp.

Filing Party: Wayne R. Rohde, Esq.; Sher & Blackwell; 1850 M Street, NW.; Suite 900; Washington, DC 20036.

Synopsis: The amendment would substitute COSCO Container Lines (Hong Kong) Co., Limited, for COSCO Container Lines Co., Ltd. and update COSCO's address. The parties request expedited review.

By Order of the Federal Maritime Commission.

Dated: February 1, 2007.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–1935 Filed 2–6–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission an application for license as a Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder-Ocean Transportation Intermediary pursuant to section 19 of the Shipping Act of 1984 as amended (46 U.S.C. Chapter 409 and 46 CFR part 515).

Persons knowing of any reason why the following applicants should not receive a license are requested to contact the Office of Transportation Intermediaries, Federal Maritime Commission, Washington, DC 20573.

Non-Vessel-Operating Common Carrier Ocean Transportation Intermediary Applicants

Harold Kass Worldwide Moving, Inc., 3641 S. Washtenaw Avenue, Chicago, IL 60632. Officers: Jonathan Tovy, President (Qualifying Individual), Robert Goldwasser, Director.

Global Partner Logistics NY, Inc., 7 River Street, #91, Little Ferry, NJ 07643. Officers: Yoon Ho Cho, President (Qualifying Individual), Kristi Bang, Secretary.

Moog International, Inc. dba Upak International dba Moog Project Logistics, 1223 Grove Road, Pittsburgh, PA 15234. Officer: Ronald P. Moog, President (Qualifying Individual).

M & H Shipping Corporation, 125–21 Metropolitan Avenue, Kew Gardens, NY 11415. Officers: Chitpaing Kyo, Vice President (Qualifying Individual), Fuliang Zhou, President.

Diarama Export, Inc., 2754 NW North River Drive, Miami, FL 33142. Officer: Dinorah P. Aguiar, President (Qualifying Individual).

Honda Logistics Inc., Win-Aoyama 201, 2–2–15, Minami-Aoyama, Minato-Ku, Tokyo 107–0062 Japan. Officers: Toshikazu Matsuoka, Managing Director (Qualifying Individual), Yoshiki Ishda, President.

Barconsa S.A. Inc. dba Barconsa Consolidated Freight, 2944 NW. 72 Avenue, Miami, FL 33122. Officers: Winston F. Barberan, President (Qualifying Individual), Ivy Barberan, Secretary.

Non-Vessel-Operating Common Carrier and Ocean Freight Forwarder Transportation Intermediary Applicants

Panda Logistics Chicago, Inc., 945 N. Edgewood Avenue, Suite F, Wood Dale, IL 60191. Officer: Cooper Chao, CEO (Qualifying Individual).

Excel Express Cargo Corp., 8430 NW. 66 Street, Miami, FL 33166. Officers: Rosy Huc, Ocean Manager (Qualifying Individual), Carlos Parra, Vice President.

Idea Global, LLC, 2428 Crittenden Drive, Louisville, KY 40217. Officers: Michael L. Smith, Manager (Qualifying Individual), Jerry Hahn, Asst. Manager.

Transmec MP USA LLC dba TS Line, 770 Foster Avenue, Bensenville, IL 60106. Officers: Bozidar Vavich, President (Qualifying Individual), Ralph Federico, Vice President.

Diversified Global Logistics, Inc., 5375 Mineral Wells, Memphis, TN 38141. Officers: Linda R. Snyder, President (Qualifying Individual), Bernard F. Snyder, Vice President.

Ocean Freight Forwarder-Ocean Transportation Intermediary Applicants

Jamaica Worldwide Shipping Inc., 4101 Elrey Road, Orlando, FL 32808. Officer: Selvin Gabriel, President (Qualifying Individual).

Combitrans Logistics, Inc., 4930 Dacoma Street, Suite F, Houston, TX 77092. Officers: Luis Acosta, President (Qualifying Individual).

Acs Logistics, Inc., 801 Hanover Drive, Suite 150, Grapevine, TX 76051. Officers: Sonya Tomushunis, Asst. Secretary (Qualifying Individual), Richard Hulbert, Director.

Dated: February 2, 2007.

Karen V. Gregory,

Assistant Secretary.

[FR Doc. E7–2009 Filed 2–6–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than February 22, 2007.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. S. L. Sethi, Madison, Mississippi; Earle Jones, Irene Jones, Jackson, Mississippi; Ray Harrigill, Monica Harrigill, Madison, Mississippi; William Price, Madison, Mississippi; Vikas Majithia, Madison, Mississippi; Sukdev Thind, Brandon, Mississippi; and Baldev B. Patel, Madison, Mississippi; to acquire additional voting shares of First Heritage Corporation, and thereby indirectly acquire voting shares of Heritage Banking Group, both of Carthage, Mississippi.

Board of Governors of the Federal Reserve System, February 2, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–1987 Filed 2–6–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes

and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 5, 2007.

A. Federal Reserve Bank of Atlanta (Andre Anderson, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Encore Bancshares, Inc., Houston, Texas; to become a bank holding company by acquiring 100 percent of voting shares of Encore Bank, Naples, Florida, upon Encore Bank's conversion from a federal savings bank to a national bank.

2. First NBC Bank Holding Company, to become a bank holding company by acquiring 100 percent of the voting shares of First NBC Bank, both of New Orleans, Louisiana.

B. Federal Reserve Bank of Kansas City (Donna J. Ward, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. First Colorado Financial Corp., Paonia, Colorado; to become a bank holding company by acquiring of 100 percent of the voting shares of First National Bank of Paonia, Paonia, Colorado.

Board of Governors of the Federal Reserve System, February 2, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–1986 Filed 1–6–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

[Docket No. OP–1276]

Privacy Act of 1974; Notice of Amendment of System of Records

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice; amendment of one system of records.

SUMMARY: In accordance with the Privacy Act, the Board of Governors of the Federal Reserve System (Board) is publishing notice of the amendment of one system of records entitled Office of Inspector General (OIG) Investigative Records (BGFRS/OIG–1). A new routine use is being added in order for the OIG to be able to participate in qualitative assessment reviews (also known as peer reviews) of investigative operations. We invite public comment on this amended system of records.

DATES: Comments must be received on or before March 9, 2007. This system of records will become effective March 19, 2007, without further notice, unless comments dictate otherwise.

ADDRESSES: You may submit comments, identified by Docket No. OP–1276, by any of the following methods:

- Agency Web site: *http://www.federalreserve.gov*. Follow the instructions for submitting comments. *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm*.
- Federal eRulemaking Portal: *http://www.regulations.gov*. Follow the instructions for submitting comments.
- E-mail: *regs.comments@federalreserve.gov*. Include docket number in the subject line of the message.
- Fax: 202/452–3819 or 202/452–3102.
- Mail: Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, except as necessary for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Laurence A. Froehlich, Assistant Inspector General for Legal Services, Office of the Inspector General, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Mail Stop 300, Washington, DC 20551, or (202) 973–5019, or *larry.froehlich@frb.gov*.

SUPPLEMENTARY INFORMATION: This publication satisfies the Privacy Act requirement that agencies publish an amended system of records notice in the **Federal Register** when there is a revision, change, or addition to the system of records. The Board's OIG has decided to amend BGFRS/OIG–1 to permit disclosure of records for the purpose of qualitative assessment reviews. The Homeland Security Act of 2002 (Pub. L. 107–296, Nov. 25, 2002) requires certain Inspectors General to ''establish an external review process for ensuring that adequate internal safeguards and management procedures continue to exist within each Office * * *.''

The Executive Council on Integrity and Efficiency (ECIE) and the President's Council on Integrity and Efficiency (PCIE) have established peer review processes that are designed to provide qualitative measurement against Inspector General community standards to ensure that adequate internal safeguards and management procedures are maintained, to foster high-quality investigations and investigative processes, to ensure that the highest level of professionalism is maintained, and to promote consistency in investigative standards and practices within the Inspector General community. The Board's OIG has committed to undergoing qualitative assessment reviews of its investigations program. Proposed routine use (7) will allow disclosure of information to authorized officials within the ECIE, the PCIE, the Department of Justice, and the Federal Bureau of Investigation, as necessary, for the purpose of conducting qualitative assessment reviews of the OIG's investigative operations.

In addition, the Board has made a technical change under ''System Manager and Address'' to accurately reflect system management changes.

In accordance with 5 U.S.C. 552a(r), a report of this amended system of records is being filed with the Chair of the House Committee on Homeland Security and Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Office of Management and Budget.

SYSTEM NAME:

OIG Investigative Records.

SYSTEM LOCATION:

Office of Inspector General, Board of Governors of the Federal Reserve System, 1709 New York Avenue NW., Suite 3000, Washington, DC 20006.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered consist of:

(1) Officers or employees of the Board or other persons involved in the Board's programs or operations who are or have been under investigation by the Board's Office of Inspector General in order to determine whether such officers, employees or other persons have been or are engaging in fraud and abuse with respect to the Board's programs or operations; and

(2) Complainants and witnesses where necessary for future retrieval.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains files on individual investigations, including investigative reports and related documents generated during the course of or subsequent to an investigation. It includes electronic and hard-copy case-tracking systems, databases containing investigatory information, ''Hotline'' telephone logs, and investigator work papers and memoranda and letter referrals to management or others.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. App. 4(a)(1) and 6(a)(2).

PURPOSES:

These records are collected, maintained and used by the OIG in its inquiries and investigations and reports relating to the administration of the Board's programs and operations and to manage the investigatory program.

ROUTINE USES:

Under normal circumstances, no individually identifiable records will be provided. However, under those unusual circumstances when release of information contained in an individually identifiable record is required, proper safeguards will be maintained to protect the information collected from unwarranted invasion of personal privacy. Subject to this general limitation, the routine uses are as follows:

1. In the event the information in the system of records indicates a violation or potential violation of a criminal or civil law, rule, or regulation, the relevant records may be disclosed to the appropriate federal, state, or local agency or authority responsible for investigating or prosecuting such a violation or for enforcing or implementing a statute, rule, or regulation.

2. The information in the system of records may be disclosed to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings.

3. The information may be disclosed to a congressional office in response to an inquiry made by that office at the request of the individual who is the subject of the records.

4. The information may be disclosed to any source, including a federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, but only to the extent necessary for the OIG to obtain information relevant to an OIG investigation.

5. The information maybe disclosed in order to respond to a federal agency's request made in connection with the hiring or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract or issuance of a grant, license, or other benefit by the requesting agency, but only to the extent that the information disclosed is necessary and relevant to the requesting agency's decision on the matter.

6. The information may be disclosed to other federal entities, such as other federal Offices of Inspector General or the General Accounting Office, or to a private party with which the OIG or the Board has contracted for the purpose of auditing or reviewing the performance or internal management of the OIG's investigatory program, provided the record will not be transferred in a form that is individually identifiable, and provided further that the entity acknowledges in writing that it is required to maintain Privacy Act safeguards for the information.

7. The information may be disclosed to officials charged with the responsibility to conduct qualitative assessment reviews of internal safeguards and management procedures employed in investigative operations. This disclosure category consists of members of the Executive Council on Integrity and Efficiency (ECIE), the President's Council on Integrity and Efficiency (PCIE), and officials and administrative staff within their investigative chain of command authorized by the ECIE or PCIE to conduct or participate in such qualitative assessment reviews.

In addition to the foregoing routine uses, a record which is contained in this system and derived from another Board system of records may be disclosed as a routine use as specified in the **Federal Register** notice of the system of records from which the records derived.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders, computer disks, electronic media, and reports on each investigation.

RETRIEVABILITY:

Records are generally indexed by name of person under investigation, investigation number, referral number, or investigative subject matter.

SAFEGUARDS:

File folders are maintained in lockable metal file cabinets stored in offices that are locked when not in use. Computer disks and electronic media are locked in the lockable metal file cabinets with their related file folders, and information not so lockable is kept in individual offices in locked or passworded computer hardware. Access to the information in the cabinets and individual offices is permitted only by and to specifically authorized personnel.

RETENTION AND DISPOSAL:

Records in file folders are retained as long as needed and then destroyed by shredding. Computer disks are cleared, retired, or destroyed when no longer useful. Entries on electronic media are deleted or erased when no longer needed.

SYSTEM MANAGER AND ADDRESS:

Inspector General, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Mail Stop 300, Washington, DC 20551.

NOTIFICATION PROCEDURE:

A person requesting notice as to whether this system of records contains information pertaining to him or her should write to the Office of Inspector General, Mail Stop 300, Board of Governors of the Federal Reserve System, Washington, DC 20551. Individuals requesting their own records must provide their name and address and a notarized statement attesting to the individual's identity. Requests submitted on behalf of other persons must include their written, notarized authorization. Such requests in the form prescribed may also be presented in person at the Office of the Inspector General, 1709 New York Avenue, NW., Washington, DC 20006.

Simultaneously with requesting notification of inclusion in this system of records, the individual may request record access as described in the following section, ''Record access procedures.''

RECORD ACCESS PROCEDURES:

Specific materials in this system have been exempted from Privacy Act provisions at 5 U.S.C. 552a(d), regarding access to records. The section of this notice titled ''Exemptions claimed for the system'' indicates the kinds of material exempted and the reasons for exempting them from access. Individuals wishing to request access to non-exempt records should follow the procedures described in the ''Notification procedure'' section. Requests submitted on behalf of other persons must include their written, notarized authorization. If access to such information by a subject individual is deemed consistent with the purposes for which this system of records has been established, then the individual will be notified by the OIG as to the time and place for access to the records. The OIG will also notify individuals when access is denied.

CONTESTING RECORD PROCEDURE:

Individuals requesting amendment or contesting records in this system of records should contact the OIG at the address given above, reasonably identify the records, specify the information being contested, the rationale for the challenge, and supply the information requested to be substituted. Such individuals must also comply with the Board's Privacy Act regulations on ''Request for correction or amendment of record'' (12 CFR 261a.7).

RECORD SOURCE CATEGORIES:

The OIG collects information from many sources including the subject individuals, employees of the Board and the Federal Reserve System, other government employees, witnesses and informants, and nongovernmental sources.

SYSTEM(S) EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(2), this system of records is exempted from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (e)(1), (e)(4)(G), (H), and (I), and (f) to the extent the system of records consists of investigatory material compiled for law enforcement purposes. Pursuant to 5 U.S.C. 552a(k)(5), this system of records is exempted from 5 U.S.C. 552a(d)(1) to the extent that it consists of investigatory material compiled for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment or federal contracts, the release of which would reveal the identity of a source who furnished confidential information to the Government under an express promise that the identity of the source would be held in confidence. Pursuant to 5 U.S.C. 552a(j)(2), this system of records is exempted from 5 U.S.C. 552a(c)(3), (d)(1), (d)(2), (e)(1), (e)(2), and (e)(3) to the extent that it consists of information compiled for the purpose of criminal investigations.

By order of the Board of Governors of the Federal Reserve System, February 1, 2007.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E7–1902 Filed 2–6–07; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Interest Rate on Overdue Debts

Section 30.13 of the Department of Health and Human Services' claims collection regulations (45 CFR Part 30) provides that the Secretary shall charge an annual rate of interest as fixed by the Secretary of the Treasury after taking into consideration private consumer rates of interest prevailing on the date that HHS becomes entitled to recovery. The rate generally cannot be lower than the Department of Treasury's current value of funds rate or the applicable rate determined from the ''Schedule of Certified Interest Rates with Range of Maturities.'' This rate may be revised quarterly by the Secretary of the Treasury and shall be published quarterly by the Department of Health and Human Services in the **Federal Register**.

The Secretary of the Treasury has certified a rate of 12½% for the quarter ended December 31, 2006. This interest rate will remain in effect until such time as the Secretary of the Treasury notifies HHS of any change.

Dated: January 30, 2007.

Jean Augustine,

Director, Office of Financial Policy and Reporting.

[FR Doc. 07–536 Filed 2–6–07; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Consumer Empowerment Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 14th meeting of the American Health Information Community Consumer Empowerment Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.)

DATES: February 16, 2007, from 1 p.m. to 4 p.m.

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090 (please bring photo ID for entry to a Federal building).

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/consumer/*.

SUPPLEMENTARY INFORMATION: The Workgroup will discuss outcomes from the recent AHIC recommendations process, and continue discussion on a personal health record. For additional information, go to *http://www.hhs.gov/healthit/ahic/consumer/ce__instruct.html*.

Dated: January 29, 2007.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 07–513 Filed 2–6–07; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Confidentiality, Privacy, and Security Workgroup Meeting

ACTION: Announcement of meeting

SUMMARY: This notice announces the seventh meeting of the American Health Information Community Confidentiality, Privacy, and Security Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.)

DATES: February 20, 2007, from 1 p.m. to 5 p.m. EST.

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC

20201), Conference Room 4090 (please bring photo ID for entry to a Federal building).

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/confidentiality/.*

SUPPLEMENTARY INFORMATION: The Workgroup members will discuss supplemental Identity Proofing Recommendations and Workgroup priorities for the rest of the year. The Workgroup plans to publish questions for public comment in the **Federal Register** before this meeting.

This meeting will be available via Web cast at *http://www.hhs.gov/healthit/ahic/cps_instruct.html.*

Dated: January 30, 2007.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 07–514 Filed 2–6–07; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Personalized Healthcare Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 2nd meeting of the American Health Information Community Personalized Healthcare Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.).

DATES: February 21, 2007, from 1 p.m. to 3 p.m.

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090 (please bring photo ID for entry to a Federal building).

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/healthcare/.*

SUPPLEMENTARY INFORMATION: The Workgroup will discuss standards for personalized healthcare and upcoming visioning exercise. For additional information, go to *http://www.hhs.gov/healthit/ahic/healthcare/phc_instruct.html.*

Dated: January 29, 2007.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 07–515 Filed 2–6–07; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology, American Health Information Community Electronic Health Records Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the 13th meeting of the American Health Information Community Electronic Health Records Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.).

DATES: February 22, 2007, from 1 p.m. to 4 p.m./Eastern.

ADDRESSES: Mary C. Switzer Building (330 C Street, SW., Washington, DC 20201), Conference Room 4090 (please bring photo ID for entry to a Federal building).

FOR FURTHER INFORMATION CONTACT: *http://www.hhs.gov/healthit/ahic/healthrecords/.*

SUPPLEMENTARY INFORMATION: The workgroup will continue its discussion of the barriers and drivers of EHR adoption. For additional information, go to *http://www.hhs.gov/healthit/ahic/healthrecords/ehr_instruct.html.*

Dated: January 29, 2007.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 07–516 Filed 2–6–07; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Anesthetic and Life Support Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Anesthetic and Life Support Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on March 29, 2007, from 8 a.m. to 5 p.m.

Location: Doubletree Hotel & Executive Meeting Center, 1750 Rockville Pike, Rockville, MD. The hotel telephone number is 301–468–1100.

Contact Person: Cathy A. Groupe, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776, e-mail: *Cathy.Groupe@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512529. Please call the information line for up-to-date information on this meeting.

Agenda: The committee will do the following: (1) Receive presentations regarding neurodegenerative findings in juvenile animals exposed to anesthetic drugs (e.g., ketamine); and (2) discuss the relevance of these findings to pediatric patients and provide guidance for future preclinical and clinical studies.

FDA intends to make background material available to the public no later than 1 business day before the meeting. If FDA is unable to post background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*, click on the year 2007 and scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before March 15, 2007. Oral presentations from the public will be scheduled between approximately 1 p.m. to 2 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of

proposed participants, and an indication of the approximate time requested to make their presentation on or before March 7, 2007. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak on or before March 8, 2007.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Cathy Groupe at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 1, 2007.

Randall W. Lutter,

Associate Commissioner for Policy and Planning.

[FR Doc. E7–1991 Filed 2–6–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Antiviral Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Antiviral Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on April 24, 2007, from 8 a.m. to 4 p.m.

Location: Food and Drug Administration, Center for Drug Evaluation and Research Advisory Committee Conference Room, rm. 1066, 5630 Fishers Lane, Rockville, MD.

Contact Person: Cicely Reese, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093) Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776, e-mail: *cicely.reese@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512531. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will discuss new drug application (NDA) 022–128, maraviroc 300 milligram tablets, Pfizer, Inc., proposed for the treatment of antiretroviral-experienced patients with chemokine (c-c motif) receptor 5 (CCR5)—tropic human immunodeficiency virus (HIV).

FDA intends to make background material available to the public no later than 1 business day before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*, click on the year 2007 and scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before April 3, 2007. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before March 26, 2007. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by March 27, 2007.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to adisability, please contact Cicely Reese at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app 2).

Dated: February 1, 2007.

Randall W. Lutter,

Associate Commissioner for Policy and Planning.

[FR Doc. E7–1900 Filed 2–6–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Vaccines and Related Biological Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Vaccines and Related Biological Products Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on February 27, 2007, from 8 a.m. to 5:30 p.m. and on February 28, 2007, from 8 a.m. to 4:15 p.m.

Location: Hilton Hotel, Washington DC North/Gaithersburg, 620 Perry Pkwy., Gaithersburg, MD 20877.

Contact Person: Christine Walsh or Denise Royster, Center for Biologics Evaluation and Research (HFM–71), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–0314, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 301–451–2391. Please call the Information Line for up-to-date information on this meeting.

Agenda: On February 27, 2007, in the morning session, the committee will hear presentations and make recommendations on the safety and effectiveness of an H5N1 inactivated

influenza vaccine manufactured by Sanofi Pasteur. In the afternoon, the committee will hear presentations and have discussions on clinical development of influenza vaccines for pre-pandemic uses. On February 28, 2007, in the morning, the committee will hear presentations and make recommendations on strain selections for the influenza virus vaccine for the 2007–2008 season. In the afternoon, the committee will hear presentations and have discussions on circulating lineages of influenza type B virus.

FDA intends to make background material available to the public no later than 1 business day before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*, click on the year 2007 and scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before February 13, 2007. Oral presentations from the public will be scheduled between approximately 10:45 and 11:15 a.m. and 2:45 and 3:15 p.m. on February 27, 2007, and between approximately 10:40 and 11:10 a.m. and 2:50 and 3:20 p.m. on February 28, 2007. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before February 5, 2007. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by February 6, 2007.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Christine Walsh or Denise Royster at least 7 days in advance of the meeting.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 1, 2007.

Randall W. Lutter,

Associate Commissioner for Policy and Planning.

[FR Doc. E7–1899 Filed 2–6–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

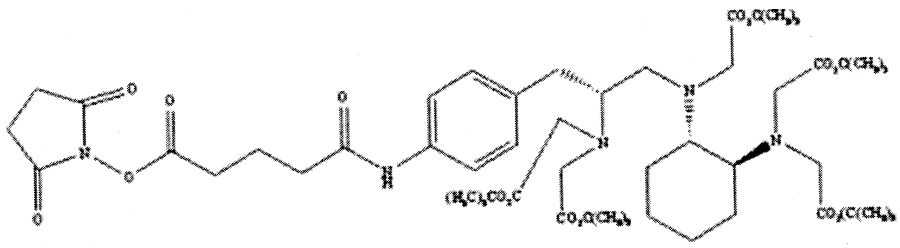
ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

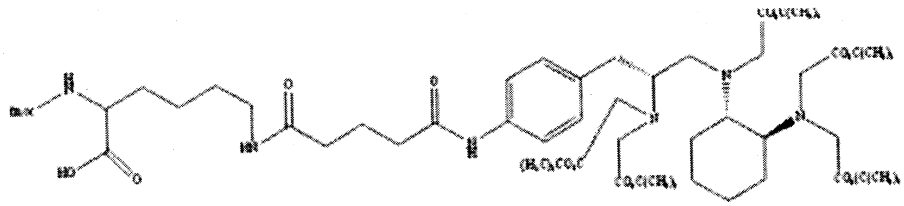
ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Metal Chelators and Target-Moiety Complexes for Imaging

Available for licensing and commercial development are bifunctional metal chelators, metal chelator-targeting moiety complexes, metal chelator-targeting moiety-metal conjugates, kits, and methods of preparing them in a non-aqueous, automated peptide synthesizer system. These bifunctional chelators are useful for radiolabeling targeting moieties with SPECT and PET radioisotopes for molecular imaging for diagnosis and/or treatment of cancer. The metal chelators may be used in conventional synthetic methods to form targeting moieties [e.g., peptides, proteins, and Starburst polyamidoamine dendrimers (PAMAM)], capable of conjugating diagnostic and/or therapeutic metals. The formulae for two such chelators are shown below:



I



II

Inventors: Martin Wade Brechbiel and Thomas Clifford (NCI).

Publications:

1. T Clifford et al. Validation of a novel CHX-A'' derivative suitable for peptide conjugation: small animal PET/CT imaging using yttrium–86–CHX–A''–octreotide. J Med Chem. 2006 Jul 13;49(14):4297–4304.

2. HS Chong et al. Synthesis and evaluation of novel macrocyclic and acyclic ligands as contrast enhancement agents for magnetic resonance imaging. J Med Chem. 2006 Mar 23;49(6):2055–2062.

Licensing Status: Available for exclusive or non-exclusive licensing or collaborative research opportunity.

Patent Status: U.S. Provisional Application No. 60/603,781 filed 23 Aug 2004 (HHS Reference No. E–317–2004/1–US–01); International Patent Application PCT/US2005/028125 filed 09 Aug 2005 (HHS Reference No. E–317–2004/1–PCT–02).

Licensing Contact: Michael A. Shmilovich, Esq.; 301/435–5019; *shmilovm@mail.nih.gov.*

Dated: January 30, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 07–526 Filed 2–6–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Extended Transgene Expression for a Non-Integrating Adenoviral Vector Containing Retroviral Elements

Description of Technology: Anthrax lethal toxin (LeTx) consists of two components: The protective antigen (PrAg) and the lethal factor (LF). PrAg binds to the cell surface where it is activated by furin protease, followed by the formation of a PrAg heptamer. LF is then translocated into the cytosol of a cell via this heptamer, where it acts as a metalloprotease on all but one mitogen-activated protein kinase kinase (MAPKK). Approximately 70% of human melanomas contain a mutation (B–RAF V600E) that constitutively activates a MAPKK pathway, and LeTx has been shown to have significant toxicity towards cells which have this mutation. This suggested a potential use for LeTx in cancer therapy. Unfortunately, native LeTx is toxic to normal cells, detracting from its *in vivo* applicability.

PrAg has been engineered to be activated by a matrix metalloprotease (MMP), instead of by furin protease. Because MMPs are highly expressed in tumor cells, this modification increases selectivity towards cancer cells. Surprisingly, mouse data shows that the modified LeTx (denoted PrAg-L1/LF) is less cytotoxic to ''normal'' cells *in vivo*, when compared to wild-type LeTx. Significantly, PrAg-L1/LF maintained its high toxicity toward human tumors in mouse xenograft models of human tumors, including melanomas. However, this toxicity applied not only to tumors having mutations that constitutively activate MAPKKs, but also to other tumor types such as lung and colon carcinomas. The absence of toxicity to ''normal'' cells coupled to its effectiveness on a wide range of cancer

cell types suggests that PrAg-L1/LF may represent a novel cancer therapeutic.

Applications: PrAg-L1/LF has applications as a human cancer therapeutic; Applicability extends beyond melanomas, including lung and colon carcinomas.

Market: The worldwide market for melanoma therapeutics is approximately $437M, and is predicted to reach $680M by the year 2009. Approximately 2.4 million people are afflicted with melanoma, with around 150,000 new cases each year. Demonstration of effectiveness *in vivo* for lung and colon carcinomas will increase the market for this technology.

Development Status: The technology is at the preclinical stage.

Inventors: Stephen H. Leppla (NIAID), Shi-hui Liu (NIAID), Thomas H. Bugge (NIDCR), John R. Basile (NIDCR), Brooke Currie (NIDCR).

Related Publications:

1. S Liu *et al.* Intermolecular complementation achieves high-specificity tumor targeting by anthrax toxin. Nat Biotechnol. 2005 Jun;23(6):725–730.

2. RJ Abi-Habib *et al.* A urokinase-activated recombinant anthrax toxin is selectively cytotoxic to many human tumor cell types. Mol Cancer Ther. 2006 Oct;5(10):2556–2562.

Patent Status: U.S. Provisional Application No. 60/870,050 filed 14 Dec 2006 (HHS Reference E–070–2007/0–US–01).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: David A. Lambertson, Ph.D.; 301/435–4632; *lambertsond@od.nih.gov.*

Collaborative Research Opportunity: The NIAID Laboratory of Bacterial Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize PrAg-L1/LF as a novel cancer therapeutic. Please contact Stephen H. Leppla, Ph.D. at 301/594–2865 and/or *sleppla@niaid.nih.gov* for more information.

A Novel Combination of CXCR–4 Antagonist T22 With Conventional Immunotherapy Improves Treatment Efficacy in Established Tumors

Description of Technology: Immunotherapy for cancer rarely results in complete responses, possibly due to chemokine receptor mediated activation of prosurvival pathways in cancer cells. CXCR4, is one such receptor that is expressed in a variety of cancers, including melanoma. Inhibiting these chemokine receptors may circumvent the ability of cancer to protect themselves from immunological attack.

This invention provides a method of treating cancers that expresses the chemokine receptor CXCR4 by a novel combination therapeutic approach. More specifically, the invention claims methods and compositions for the improved treatment of metastatic tumors by using a CXCR4 antagonist in conjunction with conventional monoclonal antibody based immunotherapy (*e.g.*, anti-CTLA4 mAb) or immunostimulatory chemotherapeutics (*e.g.*, cyclophosphamide). The invention clearly demonstrates that treatment of *in vivo* experimental lung cancer models with T22, a CXCR4 antagonist, followed by anti-Cytotoxic lymphocyte antigen (CTLA)-4 monoclonal antibody (or cyclophosphamide) treatment synergistically reduced the total tumor burden compared with the reduction of tumor burden when either agent is used alone. T22 treatment alone is not cytotoxic and has no demonstrated ability to increase non-specific host autoimmunity when used in combination with anti-CTLA4 mAb or cyclophosphamide. This invention has significant potential as a new, effective combination immunotherapy.

Applications and Modality: (1) A new method of combination therapy for cancer based on immunotherapeutics, including adoptive transfer of anti-tumor lymphocytes and treatment with immunostimulatory agents (monoclonal antibodies or chemotherapy); (2) A new therapeutic method for the treatment of CXCR4 chemokine receptor expressing cancers; (3) A new therapeutic method exploiting the role of chemokine receptor CXCR4 that potentially renders immunotherapy more effective without further increasing risks of patient autoimmunity.

Market: Chemokine receptor CXCR4 has a proven role in cancer metastasis in several cancers. The anti-cancer market is projected to reach sales of $60 billion by 2010.

Development Status: The technology is currently in the pre-clinical stage of development. Animal data is available.

Inventor: Sam T. Hwang (NCI).

Publications:

1. CH Lee *et al.* Sensitization of B16 tumor cells with a CXCR4 antagonist increases the efficacy of immunotherapy for established lung metastases. Mol Cancer Ther. 2006 Oct;5(10):2592–2599.

2. T Kakinuma and ST Hwang. Chemokines, chemokine receptors, and cancer metastasis. J Leukoc Biol. 2006 Apr;79(4): 639–651.

3. T Murakami *et al.* Expression of CXC chemokine receptor-4 enhances the pulmonary metastatic potential of murine B16 melanoma cells. Cancer Res. 2002 Dec 15;62(24):7328–7334.

Patent Status: U.S. Provisional Application No. 60/840,216 filed 25 Aug 2006, entitled ''Combination Therapy for the Treatment of Cancer'' (HHS Reference No. E–267–2006/0–US–01).

Licensing Status: Available for exclusive and non-exclusive licensing.

Licensing Contact: John Stansberry, Ph.D.; 301/435–5236; *stansbej@mail.nih.gov.*

Lentivirus Based Vector System for Gene Therapy Delivery

Description of Technology: Gene therapy is a technique based on the idea that a genetic disorder can be treated by replacing a dysfunctional gene with a functional copy of that gene. Currently, retroviral vectors and adenoviral vectors are most frequently used for gene therapy clinical trials. Retroviral vectors provide long term gene expression and are capable of transferring genes into non-dividing cells, unlike their adenoviral counterparts. However, retroviral vectors often suffer from weak viral titers and inefficient encapsidation of the therapeutic gene, detracting from their therapeutic value. Thus, there is a need in the art for improved retroviral gene therapy vectors.

This technology family is directed to a retroviral vector system comprising a packaging vector and a transfer vector, and a method of using the vectors for gene therapy. The packaging vector is the result of an HIV-2 lentiviral vector containing mutations in sequences surrounding a splice donor site within the packaging signal. The transfer vector comprises mutations that render a splice donor site non-functional. These mutations increase the viral titer and expression/encapsidation of the transgene, but without a corresponding increase in the packaging of viral RNA. Thus, these vectors may address some of the pressing concerns with current gene therapy vectors systems.

Applications: Improved lentivirus based vector system with practical application in gene therapy/gene transfer; Two vector system minimizes possibility of HIV infection; Packaging vector is a result of HIV-2 Lentivirus vector; Improved packaging and expression ability addresses current low viral titer problem.

Market: The only gene therapy product currently in the market was approved in China in 2004; The R&D market of gene therapy is projected to grow to several billion dollars in the next 5 years.

Development Status: The technology is currently in the pre-clinical stage of development.

Inventors: Suresh K. Arya (NCI).

Publication: SK Arya *et al.* Human immunodeficiency virus type 2 lentivirus vectors for gene transfer: expression and potential for helper virus-free packaging. Hum Gene Ther. 1998 Jun 10;9(9):1371–1380.

Patent Status: U.S. Patent No. 6,790,657 issued 14 Sep 2004, entitled ''Lentivirus Vector System'' (HHS Reference No. E–231–1998/0-US–03); U.S. Patent Application No. 10/731,988 filed 09 Dec 2003, now allowed, entitled ''Lentivirus Vector System'' (HHS Reference No. E–231–1998/0-US–04).

Licensing Status: Available for exclusive or non-exclusive licensing.

Licensing Contact: David Lambertson, Ph.D.; 301/435–4632; *lambertsond@od.nih.gov*.

Methods and Compositions of Chemokine-Tumor Antigen Fusion Proteins as Cancer Vaccines

Description of Technology: Tumor cells are known to express tumor specific antigens on the cell surface. These antigens are believed to be poorly immunogenic, largely because they represent gene products of oncogenes or other cellular genes which are normally present in the host. As a result, poor immunogenicity of relevant cancer antigens has proven to be a major obstacle to successful immunotherapy with tumor vaccines. Thus, there is a need for a more potent vaccine to elicit an immune response effective in the treatment or prevention of cancer.

The current invention embodies a fusion protein comprising of a chemokine and tumor antigen. The inventors reported in several peer-reviewed manuscripts that these fusion proteins represent potential vaccines for use against cancer. More specifically, the inventors have developed a vaccine construct that expresses fusion protein comprising human monocyte chemotactic protein-3 fused with tumor antigens, such as lymphoma-derived Id or breast cancer Muc-1. Administration of the fusion protein, or a nucleic acid encoding the fusion protein, elicits a specific immune response directed against the tumor antigen or protein, thereby inhibiting the growth of cells expressing this antigen or protein.

Applications and Modality: Potential immunotherapy for cancer.

Market: 600,000 deaths from cancer related diseases estimated in 2006.

Development Status: This technology is currently in the pre-clinical stage of development.

Inventors: Larry Kwak (NCI) and Arya Biragyn (NIA).

Patent Status: U.S. Patent No. 6,562,347 issued 13 May 2003 (HHS Reference No. E–107–1998–0-US–03).

Licensing Status: Available for exclusive and non-exclusive licensing.

Licensing Contact: Jennifer Wong; 301/435–4633; *wongje@mail.nih.gov.*

Dated: January 31, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–1931 Filed 2–6–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Cancer Institute Board of Scientific Advisors.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Board of Scientific Advisors.

Date: March 5–6, 2007.

Time: March 5, 2007, 8 a.m. to 6 p.m.

Agenda: Director's Report: Ongoing and New Business; Reports of Program Review Group(s); and Budget Presentation; Reports of Special Initiatives; RFA and RFP Concept Reviews; and Scientific Presentations.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Time: March 6, 2007, 8 a.m. to 1 p.m.

Agenda: Reports of Special Initiatives; RFA and RFP Concept Reviews; and Scientific Presentations.

Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Contact Person: Paulette S. Gray, PhD, Executive Secretary, Director, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, 8th Floor, Rm. 8001, Bethesda, MD 20892, 301–496–5147, *grayp@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH as instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *deainfo.nci.nih.gov/advisory/bsa.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 31, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–519 Filed 2–6–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Research Project in Cardiothoracic Surgery.

Date: March 7–8, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Shelly S. Sehnert, PhD., Scientific Review Administrator, Review

Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7206, Bethesda, MD 20892–7924, 301–435–0303, *ssehnert@nhlbi.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, Patient-Oriented Research (K23, 24, and 25's) and Career Enhancement Award for Stem Cell Research.

Date: March 22–23, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Marriott Crystal City, 2899 Jefferson Davis Highway, Arlington, VA 22202.

Contact Person: Mark Roltsch, PhD., Scientific Review Administrator, Review Branch/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7192, Bethesda, MD 20892–7924, 301–435–0287, *roltschm@nhlbi.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: January 29, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–524 Filed 2–6–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel.

Date: March 2, 2007.

Time: 10 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Katrina Foster, PhD, Scientific Review Administrator, National Inst. on Alcohol Abuse & Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm. 3037, Rockville, MD 20852, 301–443–3037, *katrina@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: January 31, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–518 Filed 2–6–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Panel for Translational Research Centers in Behavioral Science.

Date: March 1, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Washington, Pennsylvania Ave. at 15th Street, NW., Washington, DC 20004.

Contact Person: Serena P. Chu, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Rockville, MD 20892, 301–443–0004, *sechu@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Eating Disorders.

Date: March 1, 2007.

Time: 3:30 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Intervention to Reduce Relapse in Depression.

Date: March 7, 2007.

Time: 11:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9606, Bethesda, MD 20892–9609, 301–443–7861, *dsommers@mail.nih.gov.*

Name of Committee: National Institute of Mental Health Special Emphasis Panel, Child Psychosocial Interventions.

Date: March 9, 2007.

Time: 10:30 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Mary C. Blehar, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, NSC, 6001 Executive Blvd., Bethesda, MD 20892.

Name of Committee: National Institute of Mental Health Special Panel, HIV/AIDS Center.

Date: March 29, 2007.

Time: 11:30 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: David I. Sommers, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, National Institutes of Health, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892–9606, 301–443–7861, *dsommers@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS).

Dated: January 31, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–520 Filed 2–6–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended 5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the pubic in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, NIAID Specimen Repository.

Date: February 23, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate contract proposals.

Place: Marriott Bethesda North Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Eugene R. Baizman, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–402–1464, *eb237e@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 30, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–521 Filed 2–6–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis, Panel, Red Cell Membrane Studies.

Date: March 2, 2007.

Time: 8 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Xiaodu Guo, MD, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 910, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Kidney, Urology, and Hematology Training.

Date: March 6, 2007.

Time: 1:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Atul Sahai, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 908, 6707 Democracy Boulevard, Bethesda, MD 20892, (301) 594–2242, *sahaia@niddk.nih.gov.*

Name of Committee: National Institutes of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Pancreatitis Study.

Date: March 9, 2007.

Time: 3:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Maria E. Davila-Bloom, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 758, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Sphincter of Oddi Dysfunction.

Date: March 13, 2007.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *Is38oz@nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, George M. O'Brien Kidney Centers.

Date: March 21–22, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Atul Sahai, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 908, 6707 Democracy Boulevard, Bethesda, MD 20892, (301) 594–2242, *sahaia@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 30, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–522 Filed 2–6–07; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, Lister Hill National Center for Biomedical Communications.

The meeting will be open to the public as indicated below, with attendance limited to space available.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the **NATIONAL LIBRARY OF MEDICINE**, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, Lister Hill National Center for Biomedical Communications.

Date: April 12–13, 2007.

Open: April 12, 2007, 9 a.m. to 11:30 a.m.

Agenda: Review of research and development programs and preparation of reports of the Lister Hill Center for Biomedical Communications.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: April 12, 2007, 11:30 a.m. to 4 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Open: April 13, 2007, 9 a.m. to 11:15 a.m.

Agenda: Review of research and development programs and preparation of reports of the Lister Hill Center for Biomedical Communications.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: Karen Steely, Program Assistant, Lister Hill National Center for Biomedical Communications, National Library of Medicine, Building 38A, Room 7S709, Bethesda, MD 20892, 301–435–3137. *ksteely@mail.nih.gov*.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: January 30, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–523 Filed 2–6–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2007–27066]

Commercial Fishing Industry Vessel Safety Advisory Committee; Vacancies

AGENCY: Coast Guard, DHS.

ACTION: Request for applications.

SUMMARY: The Department of Homeland Security is requesting individuals who are interested in serving on the Commercial Fishing Industry Vessel Safety Advisory Committee (CFIVSAC) to apply for appointment to those seats vacated. The CFIVSAC provides advice and makes recommendations to the Coast Guard for improving commercial fishing industry safety practices.

DATES: Applications for membership should reach the Coast Guard at the address below on or before June 1, 2007.

ADDRESSES: You may request an application form by writing to Commandant (CG–3PCV–3), U.S. Coast Guard, 2100 Second Street, SW., Washington, DC 20593–0001; by calling 202–372–1248; or by faxing 202–372–1917. Send your application in written form to the above street address. This notice and the application form are available on the Internet at *http://www.FishSafe.info*.

FOR FURTHER INFORMATION CONTACT: Captain Michael B. Karr, Executive Director of the CFIVSAC, or Mr. Mike Rosecrans, Assistant to the Executive Director, by telephone at 202–372–1245, fax 202–372–1917, e-mail: *Michael.M.Rosecrans@uscg.mil*.

SUPPLEMENTARY INFORMATION: The CFIVSAC is an advisory committee established in accordance with the provisions of the Federal Advisory Committee Act (FACA) 5 U.S.C. (Pub. L. 92–463). The Coast Guard chartered the CFIVSAC to provide advice on issues related to the safety of commercial fishing industry vessels regulated under Chapter 45 of Title 46, United States Code, which includes uninspected fishing vessels, fish processing vessels, and fish tender vessels. (See 46 U.S.C. 4508.)

The CFIVSAC consists of 17 members as follows: (a) Ten members from the commercial fishing industry who reflect a regional and representational balance and have experience in the operation of vessels to which Chapter 45 of Title 46, United States Code applies, or as a crew member or processing line member on an uninspected fish processing vessel; (b) one member representing naval architects or marine surveyors; (c) one member representing manufacturers of vessel equipment to which Chapter 45 applies; (d) one member representing education or training professionals related to fishing vessel, fish processing vessels, or fish tender vessel safety, or personnel qualifications; (e) one member representing underwriters that insure vessels to which Chapter 45 applies; and (f) three members representing the general public including, whenever possible, an independent expert or consultant in maritime safety and a member of a national organization composed of persons representing the marine insurance industry.

The members who are representatives of the commercial fishing industry and of the general public will be appointed and serve as Special Government Employees (SGE) as defined in section 202(a) of title 18 United States Code. As candidates for appointment as SGEs, applicants are required to complete Confidential Financial Disclosure Reports (OGE Form 450). The DHS may not release the reports or the information in them to the public except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a). Applicants can obtain this form by going to the Web site of the Office of Government Ethics (*http://www.oge.gov*), or by e-mailing *Roberto.N.Trevino@uscg.mil*. Applications which are not accompanied by a completed OGE Form 450 will not be considered.

The CFIVSAC meets at least once a year. It may also meet for extraordinary purposes. Its subcommittees may gather throughout the year to prepare for meetings or develop proposals for the committee as a whole to address specific problems.

We will consider applications for five positions that expire or become vacant in October 2007 in the following categories: (a) Commercial Fishing Industry (two positions); (b) Underwriter (one position); (c) Education or Training Professionals (one position); and (d) General Public (one position).

Each member serves a 3-year term. Members may serve consecutive terms. All members serve at their own expense and receive no salary from the Federal Government, although travel

reimbursement and per diem are provided.

In support of the policy of the Department of Homeland Security on gender and ethic diversity, qualified women and minorities are encouraged to apply for membership.

Dated: January 27, 2007.

J.G. Lantz,

Director of National and International Standards, Assistant Commandant for Prevention.

[FR Doc. E7–1975 Filed 2–6–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket No. FEMA–2006–0034]

National Advisory Council

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Committee Management; Notice of Committee Establishment and Request for Applicants for Membership.

SUMMARY: As provided for in the Department of Homeland Security Appropriations Act of 2007, the Secretary of Homeland Security is establishing the National Advisory Council to ensure effective and ongoing coordination of Federal preparedness, protection, response, recovery, and mitigation for natural disasters, acts of terrorism, and other man-made disasters. Qualified individuals interested in serving on the National Advisory Council are invited to apply for appointment.

DATES: Applications for membership should be received by March 9, 2007. If you want to submit comments on the establishment of the National Advisory Council, comments must be received by April 9, 2007.

ADDRESSES: Applications for appointment to the National Advisory Council must be sent by mail, electronic mail (E-mail), or facsimile to John A. Sharetts-Sullivan, Chief, Records Management and Privacy, FEMA, Attention: HQ/IT–IR–RM, 500 C Street, SW., Washington, DC 20472; *john.sharetts-sullivan@dhs.gov*; telephone 202–646–2625; fax 202–646–3347.

Comments on the establishment of the National Advisory Council must be identified by docket number FEMA–2006–0034 and may be submitted by *one* of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

E-mail: FEMA-RULES@dhs.gov. Include docket number FEMA–2006–0034 in the subject line of the message.

Mail/Hand Delivery/Courier: Rules Docket Clerk, Office of the Chief Counsel, Federal Emergency Management Agency, Room 835, 500 C Street, SW., Washington, DC 20472.

Facsimile: 866–646–4536.

Instructions: All submissions received must include the words ''Department of Homeland Security'' and the docket number for this action, FEMA–2006–0034. Comments received on the establishment of the National Advisory Council will be posted without alteration on the Web site *http://www.regulations.gov* including any personal information submitted. Therefore, submitting any information makes the information known to the public. You may want to read the Privacy Act Notice located on the Privacy and Use Notice link on the Administration Navigation Bar of the Web site *http://www.regulations.gov. Do not submit applications for appointment to this Web site.*

Docket: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: John A. Sharetts-Sullivan; email *john.sharetts-sullivan@dhs.gov*; phone 202–646–2625.

Name of Committee: The National Advisory Council.

Purpose and Objective: The National Advisory Council will advise the Administrator of the Federal Emergency Management Agency (FEMA) on all aspects of emergency management. Any reference to the Administrator of FEMA in this Notice shall be considered to refer and apply to the Director of FEMA until March 31, 2007. The National Advisory Council shall incorporate State, local and tribal government and private sector input in the development and revision of the national preparedness goal, the national preparedness system, the National Incident Management System (NIMS), the National Response Plan, and other related plans and strategies.

Balanced Membership Plans: The members of the National Advisory Council shall be appointed by the Administrator of FEMA, and shall, to the extent practicable, represent a geographic (including urban and rural) and substantive cross section of officials, emergency managers, and emergency response providers from State, local, and tribal governments, private sector, and nongovernmental organizations.

Duration: Pursuant to section 508(d)(2) of the Homeland Security Act of 2002 (Public Law 107–296), as amended by section 611 of the Post-Katrina Emergency Management Reform Act of 2006, as set forth in the Department of Homeland Security Appropriations Act of 2007 (Public Law 109–295), section 14(a)(2) of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. (Public Law 92–463), shall not apply to the National Advisory Council. The National Advisory Council will therefore continue until terminated.

Responsible DHS Official: Until a Designated Federal Official has been appointed, please contact John A. Sharetts-Sullivan, Chief, Records Management and Privacy, FEMA, Attention: HQ/IT–IR–RM, 500 C Street, SW., Washington, DC 20472; *john.sharetts-sullivan@dhs.gov*; telephone 202–646–2625; fax 202–646–3347.

SUPPLEMENTARY INFORMATION: Section 508 of the Homeland Security Act of 2002 (Public Law 107–296), as amended by section 611 of the Post-Katrina Emergency Management Reform Act of 2006, as set forth in the Department of Homeland Security Appropriations Act of 2007 (Public Law 109–295), directs the Secretary of Homeland Security to establish the National Advisory Council to ensure effective and ongoing coordination of Federal preparedness, protection, response, recovery, and mitigation for natural disasters, acts of terrorism, and other man-made disasters. The National Advisory Council will assist FEMA in carrying out its missions by providing advice and recommendations in the development and revision of the national preparedness goal, the national preparedness system, NIMS, the National Response Plan, and other related plans and strategies.

The National Advisory Council is a statutory advisory committee established in accordance with the provisions of FACA.

The members of the National Advisory Council shall be appointed by the Administrator of FEMA and will be composed of Federal, State, local, tribal, and private-sector leaders and subject matter experts in law enforcement, fire, emergency medical services, hospital, public works, emergency management, State and local governments, public health, emergency response, standards-setting and accrediting organizations, representatives of individuals with

disabilities and other special needs, infrastructure protection, cybersecurity, communications, and homeland security communities. Some members will be appointed as Special Government Employees (SGE) as defined in section 202(a) of title 18, United States Code. As a candidate for appointment as a SGE, applicants are required to complete a Confidential Financial Disclosure Report (OGE Form 450). OGE Form 450 or the information contained therein may not be released to the public except under an order issued by a Federal court or as otherwise provided under the Privacy Act (5 U.S.C. 552a). The National Advisory Council may establish subcommittees for any purpose consistent with its charter upon the approval of the Administrator of FEMA.

Of the members initially appointed to the National Advisory Council, the term of office of each member shall be 3 years. Initially, one-third of the members shall be appointed for a term of 1 year, one-third shall be appointed for a term of 2 years; and one-third shall be appointed for the full 3-year term.

The National Advisory Council will meet in a plenary session approximately once per quarter. With respect to quarterly meetings, it is anticipated that the National Advisory Council will hold at least one teleconference meeting with public call-in lines. Members serve without compensation from the Federal Government; however, consistent with the charter, they will receive travel reimbursement and per diem under applicable Federal travel regulations.

In support of the Department of Homeland Security policy on gender and ethnic diversity, qualified women and minorities are encouraged to apply for this membership.

Dated: January 30, 2007.

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E7–2030 Filed 2–6–07; 8:45 am]

BILLING CODE 9110–21–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5121–N–07]

Notice of Proposed Information Collection: Comment Request; Implementation of the Violence Against Women and Department of Justice Reauthorization Act of 2005

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* April 9, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Lillian Deitzer, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., L'Enfant Plaza Building, Room 8001, Washington, DC 20410 or *Lillian_L._Deitzer@hud.gov*.

FOR FURTHER INFORMATION CONTACT: Gail Williamson, Office of Housing Assistance and Contract Administration, 451 7th Street, SW., Washington, DC 20410, telephone (202) 402–2473 (this is not a toll free number) for copies of the proposed forms and other available information.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Implementation of the Violence Against Women and Department of Justice Reauthorization Act of 2005.

OMB Control Number, if applicable: 2502–NEW.

Description of the need for the information and proposed use: Residents of Section 8 project-based units who are victims of abuse sign and submit to the project owner or management agent a form certifying that the individual is a victim of domestic violence, dating violence, or stalking and that the incident in question is bona fide. Owners and management agents will use the information in order to evaluate whether individuals are eligible to receive VAWA 2005 protections that will enable the individuals to retain their housing assistance and/or occupancy of subsidized housing units.

Agency form numbers, if applicable: HUD–90066.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated total number of burden hours needed to prepare the information collection is 900; the number of respondents is estimated to be 300 generating approximately 900 annual responses (form HUD–90066); the frequency of response is on occasion; and the estimated time needed to prepare the response is one hour.

Status of the proposed information collection: This is a new collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C., Chapter 35, as amended.

Dated: January 31, 2007.

Frank L. Davis,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. E7–2032 Filed 2–6–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID 100 1220MA 214A: DBG071005]

Notice of Public Meeting: Resource Advisory Council to the Boise District, Bureau of Land Management, U.S. Department of the Interior

AGENCY: Bureau of Land Management, U.S. Department of the Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Boise District Resource Advisory Council (RAC), will hold a meeting as indicated below.

DATES: The meeting will be held February 27, 2007, beginning at 9 a.m. and adjourning at 1 p.m. The meeting

will be held at the Boise District Office located at 3948 Development Avenue, Boise Idaho. Public comment periods will be held after each of the topics on the agenda.

FOR FURTHER INFORMATION CONTACT: MJ Byrne, Public Affairs Officer and RAC Coordinator, BLM Boise District, 3948 Development Ave., Boise, ID 83705, Telephone (208) 384–3393.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in southwestern Idaho.

The Board will formally approve the members of the new RAC Recreation Subcommittee, including one non-RAC member. BLM will review with the RAC Members, responses to comments that were received on the Draft Environmental Impact Statement (DEIS) for the Snake River Birds of Prey National Conservation Area, Resource Management Plan (RMP) and any substantive changes made to the document as a result. The RAC will be given a brief status report on the development of the Bruneau RMP, and a discussion will be held about comments and questions received from RAC Members. Hot Topics will be discussed by the District Manager and Field Office managers will provide highlights on activities in their offices.

Agenda items and location may change due to changing circumstances, including wildfire emergencies. All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations, should contact the BLM Coordinator as provided above. Expedited publication is requested to give the public adequate notice.

Dated: February 1, 2007.

David Wolf,

Acting District Manager.

[FR Doc. E7–1985 Filed 2–6–07; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ES–960–1420–BJ–TRST; Group No. 19, North Carolina]

Eastern States: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plat of survey; North Carolina.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM-Eastern States, Springfield, Virginia, 30 calendar days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153. Attn: Cadastral Survey.

SUPPLEMENTARY INFORMATION: This survey was requested by the Bureau of Indian Affairs.

The lands we surveyed are:

George Rich Farm Tract, Qualla Township, Jackson County, North Carolina

The plat of survey represents the dependent resurvey of George Rich Farm Tract, and was accepted December 20, 2006. We will place a copy of the plat we described in the open files. It will be available to the public as a matter of information.

If BLM receives a protest against this survey, as shown on the plat, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file the plat until the day after we have accepted or dismissed all protests and they have become final, including decisions on appeals.

Dated: January 17, 2007.

Michael W. Young,

Chief Cadastral Surveyor.

[FR Doc. E7–1990 Filed 2–6–07; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

National Park Service

Schedule of Wekiva River System Advisory Management Committee Meetings

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of upcoming scheduled meetings.

SUMMARY: This notice announces a schedule of upcoming meetings for the Wekiva River System Advisory Management Committee.

DATES: The meetings are scheduled for: February 7, 2007, April 3, 2007, June 6, 2007, August 7, 2007, October 3, 2007 and December 4, 2007.

Time: All scheduled meetings will begin at 6 p.m.

ADDRESSES: All scheduled meetings will be held at Sylvan Lake Park, 845 Lake Markham Rd, Sanford, FL 32771. Sylvan Lake Park is located off Interstate 4 at Exit 51 (SR 46). Take SR 46 West to Lake Markham Rd. Turn left on Lake Markham Rd. and continue one mile to Sylvan Lake Park on the left. Call (407) 322–6567 or visit *http://www.seminolecountyfl.gov/11s/parks/parkInfo.asp?id=20* for additional information on this facility.

FOR FURTHER INFORMATION CONTACT: Jamie Fosburgh, Rivers Program Manager, Northeast Region, 15 State Street, Boston, MA 02109, tel. (617) 223–5191.

SUPPLEMENTARY INFORMATION: The scheduled meetings will be open to the public. Each scheduled meeting will result in decisions and steps that advance the Wekiva River System Advisory Management Committee towards its objective of developing a comprehensive General Management Plan for the Wekiva Wild and Scenic River. Any member of the public may file with the Committee a written statement concerning any issues relating to the development of the General Management Plan for the Wekiva Wild and Scenic River. The statement should be addressed to the Wekiva River System Advisory Management Committee, National Park Service, 15 State Street, Boston, MA 02109.

The Wekiva River System Advisory Management Committee was established by Public Law 106–299 to assist in the development of the comprehensive management plan for the Wekiva River System and provide advice to the Secretary in carrying out management responsibilities of the Secretary under the Wild and Scenic River Act (16 U.S.C. 1274). Efforts have been made locally to ensure that the interested public is aware of the meeting dates. However, due to unanticipated technical problems, the National Park Service was unable to publish this **Federal Register** notice more than 15 days in advance of the February 7 meeting. Rescheduling the meeting would create an unnecessary burden for members of the public who have already arranged their schedules around that date.

Dated: January 30, 2007.

Bernard C. Fagan,

Acting Chief, NPS Office of Policy.

[FR Doc. 07–530 Filed 2–6–07; 8:45 am]

BILLING CODE 4312–52–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before January 20, 2007. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by February 22, 2007.

J. Paul Loether,

Chief, National Register of Historic Places/ National, Historic Landmarks Program.

CALIFORNIA

San Joaquin County

IOOF Lodge #355, 18819 East CA 88, Clements, 07000085

COLORADO

Larimer County

Flowers, Jacob and Elizabeth, House, 5200 W. Cty Rd. 52E, Bellvue, 07000086

GEORGIA

Fannin County

Mineral Bluff Depot, 150 Railroad Ave., Mineral Bluff, 07000089

Fulton County

Southern Spring Bed Company, 300 Martin Luther King, Jr., Dr., Atlanta, 07000088

Telfair County

McRae, Max and Emma Sue, House, 405 S. Second Ave., McRae, 07000087

IDAHO

Nez Perce County

Children's Home Finding and Aid Society of North Idaho, 1805 19th Ave., Lewiston, 07000090

LOUISIANA

Rapides Parish

Bennett Store, Approx. 2 mi. N of US71 and Old Baton Rouge Hwy., Alexandria, 07000104

NEW YORK

Broome County

Saints Cyril and Methodius Slovak Roman Catholic School, 144–146 Clinton St., Binghamton, 07000095

Madison County

DeFerriere House, 2089 Genesee St., Oneida, 07000097

Nassau County

Execution Rocks Light Station, (Light Stations of the United States MPS) In Long Island Sound, 0.9 mi. NNW of N end of NY 101 in Nassau Co., Port Washington, 07000094

Rensselaer County

Breese-Reynolds House, 601 South St., Hoosick, 07000096

NORTH CAROLINA

Craven County

Mount Shiloh Missionary Baptist Church, 307 Scott St., New Bern, 07000093

Guilford County

Smith, William Rankin and Elizabeth Wharton, House, 437 Brightwood Church Rd., NC 2758, 0.62 mi. N of U.S. 70, Whitsett, 07000091

Pitt County

Dickinson Avenue Historic District, 600–900 Blks Dickinson Ave., one blk of side Sts, inc. W. Eighth, Flicklien, S. Pitt, Clark Sts., Atlantic, Albermarle, Greenville, 07000092

SOUTH CAROLINA

Beaufort County

Charleston Navy Yard Officers' Quarters Historic District, Turnbull Ave., Everglades Dr., Navy Way, and portions of Hobson Ave. and Blackstop Dr., North Charleston, 07000100

Greenville County

Stradley and Barr Dry Goods Store, 14 S. Main St., Greenville, 07000099

Orangeburg County

Dantzler Plantation, 2755 Vance Rd., Holly Hill, 07000098

WISCONSIN

Ashland County

Ashland Harbor Breakwater Light, (Light Stations of the United States MPS) Breakwater's NW end in Chequamegon Bay, 2 mi. N of Bay City Ck. mouth, Ashland, 07000103

Douglas County

Superior Enry South Breakwater Light, (Light Stations of the United States MPS) Superior Entry S. Breakwater offshore end. 0.4 mi. NE of Wisconsin Point, Superior, 07000102

Portage County

Temple Beth Israel, 1475 Water St., Stevens Point, 07000101

A request for *REMOVAL* has been made for the following resource:

LOUISIANA

Rapides Parish

Bennett Store E of Alexandria, on U.S. 71 Alexandria vicinity, 79001083

[FR Doc. E7–1946 Filed 2–6–07; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: American Museum of Natural History, New York, NY

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the American Museum of Natural History, New York, NY. The human remains were collected from Umatilla County, OR, and Walla Walla County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the American Museum of Natural History professional staff in consultation with representatives of the Confederated Tribes of the Umatilla Reservation, Oregon.

In 1882, human remains representing a minimum of four individuals were collected from sand dunes in Umatilla, Umatilla County, OR. The human remains were purchased by the American Museum of Natural History from Mr. James Terry in 1891. No known individuals were identified. No associated funerary objects are present.

The individuals have been identified as Native American based on their likely association with a Native American village, the presence of cranial reshaping in some of the human remains, and the collector's practice of only collecting cultural items related to Native Americans from the United

States. Physical anthropologists who examined the human remains estimate them to be less than 500 years old.

Consultation information provided by the tribe, archeological information, and expert opinion also indicate that the human remains are likely associated with the Umatilla site, a Late Prehistoric to Historic Umatilla village. Geographic location is consistent with the traditional and post–contact territory of the Confederated Tribes of the Umatilla Reservation, Oregon.

In 1882, human remains representing a minimum of four individuals were collected from Old Wallula, Walla Walla County, WA. The human remains were purchased by the American Museum of Natural History from Mr. Terry in 1891. No known individuals were identified. No associated funerary objects are present.

The individuals have been identified as Native American based on the presence of cranial reshaping in some of the human remains and the collector's practice of only collecting cultural items related to Native Americans from the United States. Physical anthropologists who examined the human remains estimate them to be less than 500 years old. Expert opinion also indicates that the human remains are likely to be of recent age. Geographic location is consistent with the traditional and post–contact territory of the Confederated Tribes of the Umatilla Reservation, Oregon.

Officials of the American Museum of Natural History have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of eight individuals of Native American ancestry. Officials of the American Museum of Natural History also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Confederated Tribes of the Umatilla Reservation, Oregon.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Nell Murphy, Director of Cultural Resources, American Museum of Natural History, Central Park West at 79th Street, New York, NY 10024–5192, telephone (212) 769–5837, before March 9, 2007. Repatriation of the human remains to the Confederated Tribes of the Umatilla Reservation, Oregon may proceed after that date if no additional claimants come forward.

The American Museum of Natural History is responsible for notifying the Confederated Tribes of the Umatilla Reservation, Oregon that this notice has been published.

Dated: January 19, 2007.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–1968 Filed 2–6–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Central Washington University, Department of Anthropology and Museum, Ellensburg, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the control of Central Washington University, Department of Anthropology and Museum, Ellensburg, WA. The human remains were removed from Ferry and Okanogan Counties, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Central Washington University, Department of Anthropology and Museum professional staff in consultation with representatives of the Confederated Tribes of the Colville Reservation, Washington.

In 1958, human remains representing a minimum of one individual were removed from a terrace 15 feet from Kettle River in Ferry County, WA, by University of Washington Museum staff, and were accessioned by the Thomas Burke Memorial Washington State Museum (Burke Museum), University of Washington, Seattle, WA (Burke Accession 1963–70). In 1974, the Burke Museum legally transferred the human remains to the Central Washington University, Department of Anthropology and Museum. No known individual was identified. No associated funerary objects are present.

Based on skeletal morphology and geographic and accession documentation, the human remains are of Native American ancestry. Ferry County is located within the aboriginal territory of the Confederated Tribes of the Colville Reservation, Washington. Ethnographic sources identify Ferry County as an area associated with the Colville Band (Kennedy and Bouchard 1998; Mooney 1896; Ray 1936; Spier 1936; Swanton 1952). The Colville Band is one of the twelve tribes and bands that compose the Confederated Tribes of the Colville Reservation, Washington.

In 1960, human remains representing a minimum of four individuals were removed from land adjacent to Washington State Highway 20, three miles east of Tonasket in Okanogan County, WA, by a Washington State Highway Department crew. The Washington State Highway Department gave the human remains to the Okanogan County Sheriff's Office. The Okanogan County Sheriff sent the human remains to the University of Washington School of Medicine's Anatomy Department for identification. The Burke Museum accessioned the human remains in 1965 (Burke Accession 1965–55). In 1974, the Burke Museum legally transferred the human remains to Central Washington University, Department of Anthropology and Museum. No known individuals were identified. No associated funerary objects are present.

Based on morphological evidence, the human remains are Native American. The northern area of Okanogan County was part of the aboriginal and historic territory of the Okanogan people. Geographic affiliation is consistent with the historically documented territory of the Confederated Tribes of the Colville Reservation, Washington. The Okanogan Band is one of the twelve tribes and bands that compose the Confederated Tribes of the Colville Reservation, Washington.

Officials of Central Washington University, Department of Anthropology and Museum have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of five individuals of Native American ancestry. Officials of the Central Washington University, Department of Anthropology and Museum have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Confederated Tribes of the Colville Reservation, Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Lourdes Henebry-

DeLeon, NAGPRA Program Director, Central Washington University, Department of Anthropology and Museum, 400 East University Way, Ellensburg, WA 98926–7544, telephone (509) 963–2671, before March 9, 2007. Repatriation of the human remains to the Confederated Tribes of the Colville Reservation, Washington may proceed after that date if no additional claimants come forward.

The Central Washington University, Department of Anthropology and Museum is responsible for notifying the Confederated Tribes of the Colville Reservation, Washington that this notice has been published.

Dated: December 18, 2006.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–1970 Filed 2–6–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Central Washington University, Department of Anthropology and Museum, Ellensburg, WA, and Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the Central Washington University, Department of Anthropology and Museum, Ellensburg, WA, and Thomas Burke Memorial Washington State Museum (Burke Museum), University of Washington, Seattle, WA. The human remains and associated funerary objects were removed from a site upriver from the McNary Dam in Benton County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Burke Museum and Central Washington University professional staff in consultation with representatives of the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; and Confederated Tribes of the Warm Springs Reservation of Oregon.

In 1965, human remains representing a minimum of two individuals were removed from a rock shelter approximately six miles east of the McNary Dam (possibly site 45BN5) in Benton County, WA, by Ray Dunn and Fred Hendrix. Mr. Dunn and Mr. Hendrix donated the human remains to the Burke Museum in 1966 (Burke Accn. #1966–11). A portion of the human remains were transferred from the Burke Museum to Central Washington University in 1974. No known individuals were identified. The 107 associated funerary objects are 102 shell beads, 1 piece of cordage, and 4 wood fragments.

Early and late ethnographic sources identify the area six miles east of the McNary Dam area territory of the Cayuse, Walla Walla, and Umatilla tribes (Hale 1841; Stern 1998; Ray 1936). The Cayuse, Walla Walla, and Umatilla were separate tribes prior to the treaty on June 9, 1855, but were removed to the Umatilla Reservation under the terms of the Walla Walla Treaty. The three tribes were officially confederated in 1949.

The area east of McNary Dam was heavily utilized by the Umatilla, including the spring and summer camp *tu'woyepa* on the Oregon side of the Columbia River (Ray 1936), the Umatilla fishing site *wanaket* (Lane and Lane 1979), and the small fishing village *xululupa* on the Washington side of the Columbia River (Ray 1936). The human remains evidence extreme dental attrition, a trait that is common for Columbia plateau populations. The practice of burying individuals with personal belongings, including shell beads, is consistent with documented prehistoric and historic practices of the tribes that are members of the present–day Confederated Tribes of the Umatilla Reservation, Oregon. The area six miles east from the McNary Dam is within the aboriginal territory of the Confederated Tribes of the Umatilla Reservation, Oregon as determined by the Indian Claims Commission.

The human remains have been determined to be Native American based on geographic, historical, and osteological evidence, and culturally affiliated to the Confederated Tribes of the Umatilla Reservation, Oregon.

Officials of the Burke Museum and Central Washington University have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of two individuals of Native American ancestry. Officials of the Burke Museum and Central Washington University also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 107 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Burke Museum and Central Washington University have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Confederated Tribes of the Umatilla Reservation, Oregon.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Dr. Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195–3010, telephone (206) 685–2282 or Lourdes Henebry-DeLeon, NAGPRA Program Director, Department of Anthropology and Museum, Central Washington University, Ellensburg, WA 98926–7544, telephone (509) 963–2671, before March 9, 2007. Repatriation of the human remains and associated funerary objects to the Confederated Tribes of the Umatilla Reservation, Oregon may proceed after that date if no additional claimants come forward.

The Burke Museum is responsible for notifying the Confederated Tribes and Bands of the Yakama Nation, Washington; Confederated Tribes the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; and Confederated Tribes of the Warm Springs Reservation of Oregon that this notice has been published.

Dated: January 18, 2007.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–1971 Filed 2–6–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: Denver Museum of Nature & Science, Denver, CO

AGENCY: National Park Service, Interior.
ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the Denver Museum of Nature & Science, Denver, CO that meet the definition of ''unassociated funerary objects'' under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

The two cultural items are decorated animal bones, reportedly found with human remains. The human remains were repatriated to the Miccosukee Tribe of Indians of Florida after publication of a Notice of Inventory Completion in the **Federal Register** on June 7, 2004 (FR Doc 04–12661, page 31841) and a corrected Notice of Inventory Completion on December 5, 2005 (FR Doc 05–23873, pages 73261–73262).

Sometime between 1910 and 1911, the human remains came into the possession of Jesse H. Bratley. After Mr. Bratley's death in 1948, the cultural items came into the possession of Mr. Bratley's daughter, Hazel Bratley. In 1961, Mary W.A. Crane and Francis V. Crane purchased the cultural items from Ms. Bratley. In 1983, the Cranes donated the cultural items to the museum. Based on provenience, museum records, research, and consultation with the Seminole Nation of Oklahoma, and Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations, the cultural items have been determined to be Seminole. Mr. Bratley resided in Homestead, FL, in 1910 and moved to Miami, FL, in 1911. During this time, Mr. Bratley photographed Seminole people. His records for the cultural items say that he acquired ''sacral & pubic bones and some smaller ones,'' and recorded the culture of the cultural items as ''Seminole.''

Historical and archeological evidence establish that Seminole and Miccosukee people have been residents in central and southern Florida for several hundred years. In consultations, representatives of the Miccosukee Tribe of Indians of Florida; Seminole Nation of Oklahoma; and Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations confirmed their affiliation with earlier historic American Indians in Florida and indicated that the cultural items were associated with human remains of an individual that was probably one of their ancestors. This individual was repatriated to the Miccosukee Tribe of Indians of Florida. Descendants of the Seminole are members of the Miccosukee Tribe of Indians of Florida; Seminole Nation of Oklahoma; and Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations.

Officials of the Denver Museum of Nature & Science have determined that, pursuant to 25 U.S.C. 3001 (3)(B), the two cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Officials of the Denver Museum of Nature & Science also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the cultural items and the Miccosukee Tribe of Indians of Florida; Seminole Nation of Oklahoma; and Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact Dr. Stephen Nash, NAGPRA Officer, Department of Anthropology, Denver Museum of Nature & Science, 2001 Colorado Boulevard, Denver, CO 80205, telephone (303) 370–6056, before March 9, 2007. Repatriation of the unassociated funerary items to the Miccosukee Tribe of Indians of Florida; Seminole Nation of Oklahoma; and Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations may proceed after that date if no additional claimants come forward.

The Denver Museum of Nature & Science is responsible for notifying the Miccosukee Tribe of Indians of Florida; Seminole Nation of Oklahoma; and Seminole Tribe of Florida, Dania, Big Cypress, Brighton, Hollywood & Tampa Reservations that this notice has been published.

Dated: January 23, 2007.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–1965 Filed 2–6–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Native American Graves Protection and Repatriation Review Committee Findings and Recommendations Regarding Cultural Items in the Possession of the Field Museum

AGENCY: National Park Service, Interior.
ACTION: Native American Graves Protection and Repatriation Review Committee: Findings and Recommendations.

SUMMARY: At a November 3–4, 2006, public meeting in Denver, CO, the Native American Graves Protection and Repatriation Review Committee (Review Committee) considered a dispute between the White Mountain Apache Tribe and the Field Museum. The dispute focused on whether 33 items (catalogue records) in the possession or control of the Field Museum are ''objects of cultural patrimony'' and whether the Field Museum has a ''right of possession'' to them under provisions of the Native American Graves Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001 *et seq.*]. The Review Committee finds that, by a preponderance of the evidence, these items are ''objects of cultural patrimony'' and that the Field Museum does not have a ''right of possession'' to them.

SUPPLEMENTARY INFORMATION: In 1993, the Field Museum provided the White Mountain Apache Tribe with a summary of its Apache collections as required under provisions of NAGPRA. White Mountain Apache Tribe representatives visited the Field Museum in 1995, 1997, and 2000.

On May 30, 2002, the White Mountain Apache Tribe submitted a claim to the Field Museum for 33 items (catalogue records) identified by the tribe as both sacred objects and objects of cultural patrimony. The tribe asserted that the Field Museum did not have right of possession to the 33 items.

On June 20, 2003, the Field Museum responded to the White Mountain Apache Tribe's claim. The museum concurred with the tribe's identification of the 33 items as sacred objects. The museum did not agree with the tribe's

claim that the items were objects of cultural patrimony nor that the museum did not have right of possession. The museum offered to return the 33 items to the White Mountain Apache Tribe with the condition that if any of the items are ever alienated by the tribe they will be returned to the museum.

On June 4, 2004, the Field Museum offered to remove the reversionary condition contingent on passage of tribal legislation, in a form agreed upon by the museum, which identifies the 33 items as sacred objects under NAGPRA, and that any item repatriated to the White Mountain Apache Tribe shall be considered inalienable property of the tribe.

On March 17, 2006, the White Mountain Apache Tribe requested the assistance of the Review Committee in resolving its dispute with the Field Museum.

On March 23, 2006, the Review Committee's Designated Federal Officer acknowledged receipt of the request and identified questions as to whether the 33 items are objects of cultural patrimony and whether the Field Museum has right of possession to the 33 items as issues of fact that the Review Committee might wish to assist in resolving. The White Mountain Apache Tribe's request for a recommendation as to whether the Field Museum's compromise provisions fully comply with statutory and regulatory requirements appeared to be beyond the Review Committee's purview.

On March 24, 2006, the Review Committee's Designated Federal Officer requested additional information from the White Mountain Apache Tribe and the Field Museum for consideration by the Review Committee prior to determining if the matter should be considered by the Review Committee. The Review Committee Chair and the Designated Federal Officer decided jointly to place discussion of the matter on the agenda of the Review Committee's next meeting.

At its May 30–31, 2006 meeting, the Review Committee considered the documents submitted by the White Mountain Apache Tribe and the Field Museum. The Review Committee recognized the possibility of a dispute, but was hopeful that the parties would come to a positive resolution. At the Review Committee's request, the Designated Federal Officer informed the White Mountain Apache Tribe and the Field Museum of the Review Committee's recommendations and asked that the parties notify him if they had not resolved the matter by August 1, 2006.

On August 4, 2006, the White Mountain Apache Tribe informed the Review Committee's Designated Federal Officer that the matter regarding repatriation of the 33 items had not been resolved.

On September 15, 2006, the Review Committee Chair and the Designated Federal Officer decided jointly that it was appropriate for the Review Committee to assist in the resolution of the dispute regarding whether the 33 items are objects of cultural patrimony and whether the Field Museum has right of possession of the 33 items. The White Mountain Apache Tribe and the Field Museum were notified that the matter would be considered by the Review Committee at its next meeting.

Under Section 8 of NAGPRA [25 U.S.C. 3006 (c)], the Review Committee has the responsibility: (1) to facilitate the resolution of any dispute among Indian tribes, Native Hawaiian organizations, or lineal descendants and Federal agencies or museums relating to the return of NAGPRA cultural items including convening the parties to the dispute if deemed desirable; (2) to monitor the inventory and identification process conducted under Section 5 and 6 of NAGPRA to ensure a fair, objective consideration and assessment of all available relevant information and evidence; and (3) upon the request of any affected party, review and make findings related to the identity or cultural affiliation of cultural items, or the return of such items. The issues considered by the Review Committee in this dispute between the White Mountain Apache Tribe and the Field Museum are within the responsibilities assigned to the committee under NAGPRA. The Review Committee has the authority to review and make findings related to the identity of the 33 items as well as the issue of right of possession, as it relates to the return of such items.

FINDINGS:

On November 3–4, 2006, the Review Committee considered the dispute as presented by representatives of the White Mountain Apache Tribe and the Field Museum and made the following findings:

(1) The identification of the 33 items as sacred objects and their cultural affiliation with the White Mountain Apache Tribe are not in dispute.

(2) The White Mountain Apache Tribe has asserted that these items are objects of cultural patrimony and the Field Museum has asserted that they are not objects of cultural patrimony.

(3) An object of cultural patrimony is defined as ''an object having ongoing historical, traditional, or cultural importance central to the Native American group or culture itself, rather than property owned by an individual Native American, and which, therefore, cannot be alienated, appropriated, or conveyed by any individual regardless of whether or not the individual is a member of the Indian tribe or Native Hawaiian organization and such object shall have been considered inalienable by such Native American group at the time the object was separated from such group'' [25 U.S.C. 3001 (3)(D)].

(4) There is conflicting evidence regarding whether the 33 items are of ongoing historical, traditional, or cultural importance to the White Mountain Apache Tribe. The Field Museum argued that, while the requested items have ongoing historical, traditional, or cultural importance, the items themselves are not ''central'' to the culture. To substantiate their position that the claimed objects are not of ''central importance,'' the Field Museum offers the following arguments: (a) that no controversy or confrontation occurred at the time of sale; (b) that the masks are not named or recognized individually; (c) that many masks are held in museums and private collections; and (d) that many masks are sold and there have been no previous public complaints by the tribe. The White Mountain Apache Tribe's position on ''central importance'' is that the 33 items are needed to channel the supernatural powers that serve to promote the general well-being and survival of the tribe. On this matter, the Review Committee placed considerable weight on the testimony of the traditional religious leaders who said that objects are of central importance. The Review Committee recognized that there is a commercial market of masks that have not been ritually treated and that there have been a few instances in which ritually treated objects have been sold. Violations to rules occur among all societies, and the White Mountain Apache are apparently no exception.

(5) There is conflicting evidence regarding whether the White Mountain Apache Tribe considered the 33 items to be inalienable by individuals in 1901 and 1903. The Field Museum cited ethnographic accounts by Grenville Goodwin indicating that such items were individual property. The White Mountain Apache Tribe presented testimony from present-day elders and from an anthropologist indicating that such items could not legitimately be sold by individuals. Testimony from the White Mountain Apache Tribe indicated that the present-day elders acquired their information from individuals who

were alive at the time the objects were collected and who were in a position to know the cultural norms at that time. They also presented evidence indicating plausible reasons why Dr. Goodwin's information from that period may have been incorrect. The Review Committee found the arguments by the White Mountain Apache Tribe to be persuasive.

(6) Based on the abovementioned information, the Review Committee finds that the 33 items are consistent with the definition of object of cultural patrimony.

(7) The Field Museum has asserted that it has right of possession to the 33 items, based on evidence that these items were purchased by an agent of the museum from individual members of the tribe. These purchases were made in the open and with the full knowledge of the White Mountain Apache Tribe. The Field Museum asserted that there is no evidence that the purchases were contested at the time, or that any sellers were challenged or punished.

(8) Right of possession is defined in part as ''possession obtained with the voluntary consent of an individual or group that had authority of alienation.''

(9) There is no dispute that the Field Museum purchased these items from individuals, and no evidence was presented to indicate that these purchases were approved by the White Mountain Apache Tribe.

(10) Evidence presented by the White Mountain Apache Tribe and the Field Museum indicated that the 33 items were sold to the museum by individuals who did not have the authority of alienation. Items of cultural patrimony can only be alienated with the voluntary consent of the tribe. The Field Museum did not present evidence indicating that the sales were made with the voluntary consent of the tribe. Therefore, the Review Committee finds that the Field Museum has not presented evidence sufficient to overcome the inference established by the White Mountain Apache Tribe that the museum does not have a right of possession to the 33 items.

RECOMMENDATIONS:

Based on these findings, the Review Committee recommends that:

(1) The Field Museum consider the oral testimony and written evidence provided by the White Mountain Apache Tribe, and change its determination of the 33 items to recognize their status as objects of cultural patrimony.

(2)The Field Museum acknowledge that it lacks right of possession to the 33 items.

The National Park Service publishes this notice as part of its administrative and staff support for the Review Committee. The findings and recommendations are those of the Review Committee and do not necessarily represent the views of the Secretary of the Interior. Neither the Secretary of the Interior nor the National Park Service has taken a position on these matters.

Dated: December 1, 2006.

Rosita Worl,

Chair, Native American Graves Protection and Repatriation Review Committee.

[FR Doc. E7–1964 Filed 2–6–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Palo Alto Junior Museum and Zoo, Palo Alto, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGRPA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary object in the control of the Palo Alto Junior Museum and Zoo, Palo Alto, CA. The human remains and associated funerary object were removed from an unknown location in the Southwestern United States.

This notice is published as part of the National Park Service's administration responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary object. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Palo Alto Junior Museum and Zoo professional staff with assistance from the Anthropological Studies Center, Archaeological Collections Facility, Sonoma State University professional staff in consultation with representatives of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona.

At an unknown time, human remains representing a minimum of one individual were removed from an unknown location in the Southwestern United States. The human remains were donated at an unknown time by an unknown donor to the Palo Alto Junior Museum and Zoo. No known individual was identified. The one associated funerary object is a cremation urn.

The antiquity of the human remains is unknown. No testing has been performed. The age, sex, and ethnicity of the individual are unknown due to the thoroughness of the cremation process. However, the cremation urn associated with the individual has been identified as Hohokam. The cremation urn is made of buffware ceramic with an exterior design traditional to the Hohokam tribe of the Southwestern United States.

Archeological evidence has demonstrated a strong relationship of shared group identity between the Hohokam and the present–day O'odham (Pima and Papago) and Hopi. The O'odham people are currently represented by the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona. In 1990, representatives of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona issued a joint policy statement claiming ancestral ties to the Hohokam cultural traditions.

Hopi oral tradition places the origins of their Patki, Sun, Sand, Corn, and Tobacco Clans south of the Colorado plateau. While Hopi oral traditions do not identify specific locations, some of the descriptions are consistent with Hohokam settlements in central Arizona during the Classic period. O'odham oral traditions indicate that some of the Hohokam people migrated north and joined the Hopi. In 1994, representatives of the Hopi Tribe of Arizona issued a statement claiming cultural affiliation with Hohokam cultural traditions.

The oral traditions of the Zuni mention Hawikuh, a Zuni community, as a destination of settlers from the Hohokam area. Zuni language, prayers, and rituals used by the Zuni Shu maakwe medicine society have

descended from the Hohokam. In 1995, representatives of the Zuni Tribe of the Zuni Reservation, New Mexico issued a statement claiming cultural affiliation with the Hohokam cultural traditions.

Based on consultation with the tribes and the available archeological evidence, officials of the Palo Alto Junior Museum and Zoo reasonably believe that the human remains are of Native American ancestry, specifically Hohokam. There is no further museum documentation on the human remains and associated funerary object.

Descendants of the Hohokam, Papago, and Pima are members of the present–day Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico.

Officials of the Palo Alto Junior Museum and Zoo have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of one individual of Native American ancestry. Officials of the Palo Alto Junior Museum and Zoo also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the one associated funerary object described above is reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, the officials of the Palo Alto Junior Museum and Zoo have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the human remains and associated funerary object and the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary object described above should contact Robert De Geus, Recreation and Youth Service's Division Manager, 1305 Middlefield Rd., Palo Alto, CA 94301, telephone (650) 463–4908, before March 9, 2007. Repatriation of the human remains and associated funerary object to the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico may proceed after that date if no additional claimants come forward.

The Palo Alto Junior Museum and Zoo is responsible for notifying the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: December 14, 2006.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–1963 Filed 2–6–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Public Utility District No. 1 of Douglas County, East Wenatchee, WA; Central Washington University, Department of Anthropology and Museum, Ellensburg, WA; and Thomas Burke Museum of Natural History and Culture, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the control of Public Utility District No. 1 of Douglas County, East Wenatchee, WA, and in the possession of the Central Washington University, Department of Anthropology and Museum, Ellensburg, WA, and Thomas Burke Museum of Natural History and Culture (Burke Museum), University of Washington, Seattle, WA. The human remains were removed from Okanogan County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Central Washington University and Burke Museum professional staff in consultation with representatives of the Confederated Tribes of the Colville Reservation, Washington.

In 1963, human remains were removed from site 45–OK–52 in Okanogan County, WA, under the supervision of Garland Grabert, a University of Washington archeologist, as part of the fieldwork for the Public Utility District No. 1 of Douglas County Wells Dam Project. Museum records show the human remains from site 45–OK–52 were taken to the Anthropology Department at the University of Washington, and subsequently transferred to the Burke Museum (Accn. 1965–74). Many of the individuals were subsequently transferred to other museums and/or reburied.

In 2004, Central Washington University identified a minimum of one individual from 45–OK–52 in their collection. Also in 2004, the Burke Museum identified a minimum of one individual from this site in their collection. No known individuals were identified. No associated funerary objects are present.

In 1963, human remains were removed from site 45–OK–66 in Okanogan County, WA, under the supervision of Garland Grabert, a University of Washington archeologist, as part of the fieldwork for the Public Utility District No. 1 of Douglas County Wells Dam Project. Museum records show the human remains, except for Burial 1, were taken to the Anthropology Department at the University of Washington, and subsequently transferred to the Burke Museum (Accn. 1955–74). Many of the individuals were subsequently transferred to other museums and/or reburied. The remainder of the individuals were subsequently transferred to other museums and/or reburied.

In 2004, Central Washington University identified a minimum of three individuals from 45–OK–66 in their collection. No known individuals were identified. No associated funerary objects are present.

Site 45–OK–52 was a housepit village found along the shore of the Columbia River just upstream of the mouth of the Okanogan River on Cassimer Bar. Site 45–OK–66 is a cemetery, which paralleled the Columbia River, upstream from the mouth of the Okanogan River.

Archeological evidence indicates that the burials found at sites 45–OK–52 and 45–OK–66 date to the prehistoric and historic period. The most common method of interment was tightly flexed in a supine position beneath a cedar cist and a rock cairn. This pattern is consistent in all details, except the cist, with the ethnohistorically reported mortuary practices of the Sinkaietk people of the southern Okanogan River. Descendants of the Sinkaietk are members of the Confederated Tribes of the Colville Reservation, Washington.

The geographical location of the burials are consistent with the prehistoric and historic territory of the Confederated Tribes of the Colville Reservation, Washington. Consultation evidence provided by representatives of the Confederated Tribes of the Colville Reservation, Washington indicates that Okanogan County is part of the traditional and historically known occupation territory of the Confederated Tribes of the Colville Reservation, Washington.

Officials of Public Utility District No. 1 of Douglas County have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of five individuals of Native American ancestry. Officials of the Public Utility District No. 1 of Douglas County also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Confederated Tribes of the Colville Reservation, Washington.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Lourdes Henebry–DeLeon, NAGPRA Program Director, Department of Anthropology and Museum, Central Washington University, Ellensburg, WA 98926–7544, telephone (509) 963–2671 before March 9, 2007. Repatriation of the human remains to the Confederated Tribes of the Colville Reservation, Washington may proceed after that date if no additional claimants come forward.

Public Utility District No. 1 of Douglas County is responsible for notifying the Confederated Tribes of the Colville Reservation, Washington this notice has been published.

Dated: December 21, 2006.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–1966 Filed 2–6–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Springfield Science Museum, Springfield, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Springfield Science Museum, Springfield, MA. The human remains were removed from Mississippi County, AR.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Springfield Science Museum professional staff in consultation with representatives of the Quapaw Tribe of Indians, Oklahoma.

At an unknown date, human remains representing a minimum of one individual were removed by an unknown individual from the Central Mississippi River Valley of Arkansas. The human remains were donated to the museum by an unknown individual at an unknown date. No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing a minimum of one individual were removed from Nodena Mound (3MS3 or 3MS4), Mississippi County, AR, by an unknown individual. In the 1960s, the human remains were donated to the museum by Herman Elston. No known individual was identified. No associated funerary objects are present.

Based on the skeletal and dental morphology, the human remains have been identified as Native American. The Quapaw Tribe, prior to European contact and in the Historic period, resided along both sides of the Mississippi River until an epidemic swept through their villages in the latter part of the 17th century. The Quapaw consolidated their villages on the western side of the Mississippi River near the confluence of the White and Arkansas Rivers. The Quapaw maintained a presence in the Central Mississippi Valley until the tribe's removal to northwest Louisiana in 1824 when all of their land in the Territory of Arkansas was ceded to the United States. Present–day descendants of the Quapaw people are members of the Quapaw Tribe of Indians, Oklahoma.

Officials of the Springfield Science Museum have determined that, pursuant to 25 U.S. C. 3001 (9–10), the human remains described above represent the physical remains of two individuals of Native American ancestry. Officials of the Springfield Science Museum also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Quapaw Tribe of Indians, Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact David Stier, Director, Springfield Science Museum, 220 State Street, Springfield, MA 01103, (413) 263–6800, ext. 321, before March 9, 2007. Repatriation of the human remains to the Quapaw Tribe of Indians, Oklahoma may proceed after that date if no additional claimants come forward.

The Springfield Science Museum is responsible for notifying the Quapaw Tribe of Indians, Oklahoma that this notice has been published.

Dated: December 28, 2006.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–1949 Filed 2–6–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: Springfield Science Museum, Springfield, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the Springfield Science Museum, Springfield, MA, that meet the definition of ''unassociated funerary objects'' under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole

responsibilities of the museum, institution, or Federal agency that has control over the cultural items. The National Park Service is not responsible for the determinations in this notice.

The 111 cultural items are unassociated funerary objects removed from multiple sites in Arkansas, Crittendon, Cross, Jefferson, Lee, Lincoln, Mississippi, Phillips, Poinsett, and St. Francis Counties, AR, by C.B. Moore. Mr. Moore donated the cultural items to the Springfield Science Museum in 1908, 1910, 1911, and 1912.

At an unknown date, 18 cultural items were removed from Menard Mound (Arkansas site number 3AR4), Arkansas County, AR, by C.B. Moore. The 18 unassociated funerary objects are 1 pottery disk, 2 bird head pottery handles, 2 copper beads, 3 Mississippian Plain bottles, 1 Old Town bottle, 2 Carson Red on Buff bowls, 2 Mississippian Plain jars, 4 Mississippian Plain bowls, and 1 clay figurine with face.

At an unknown date, two cultural items were removed from Old River Landing, (Arkansas site number 3AR14), Arkansas County, AR, by C.B. Moore. The two unassociated funerary objects are one small Mississippian Plain dish and one Nodena Red and White bottle.

At an unknown date, one cultural item was removed from near Sawyer's Landing, Arkansas County, AR, by C.B. Moore. The one unassociated funerary object is a Mississippian Plain frog effigy bowl.

At an unknown date, one cultural item was removed from Bradley Place (Arkansas site number 3CT7), Crittenden County, AR, by C.B. Moore. The one unassociated funerary object is a Bell Plain effigy jar.

At an unknown date, four cultural items were removed from a mound in Crittenden County, AR, by C.B. Moore. The four unassociated funerary objects are pottery disks with drilled holes.

At an unknown date, three cultural items were removed from a cemetery at Jones Place (Arkansas site number 3CS25), Cross County, AR, by C.B. Moore. The three unassociated funerary objects are one Bell Plain jar/bottle, one Mississippian Plain bowl, and one Bell Plain pedestal bottle.

At an unknown date, one cultural item was removed from a cemetery at Parkin (Arkansas site number 3CS29), Cross County, AR, by C.B. Moore. The one unassociated funerary object is a Bell Plain bottle.

At an unknown date, four cultural items were removed from a cemetery at Neely's Ferry (Arkansas site number 3CS24), Cross County, AR, by C.B. Moore. The four unassociated funerary objects are one Mississippian Plain pedestal bottle, one Mississippian Plain bottle, and two Parkin Punctated jars.

At an unknown date, 16 cultural items were removed from Rose Mound (Arkansas site number 3CS27), Cross County, AR, by C.B. Moore. The 16 unassociated funerary objects are 2 Old Town red bottles, 1 small decorated bowl, 3 Bell Plain bottles, 2 Mississippian Plain bottles, 1 Bell Plain jar, 1 Bell Plain short bottle, 1 Mississippian Plain effigy jar, 1 Bell Plain fish effigy bottle, 1 Old Town red bowl, 1 Bell Plain tripod bottle, and 2 Mississippian Plain bowls.

At an unknown date, two cultural items were removed from Turkey Island (Arkansas site number 3CS78), Cross County, AR, by C.B. Moore. The two unassociated funerary objects are one Bell Plain effigy bowl and one wide-mouth pedestal bottle.

At an unknown date, three cultural items were removed from a mound near Turkey Island, Cross County, AR, by C.B. Moore. The three unassociated funerary objects are one sample of red ochre and two worked shells.

At an unknown date, 18 cultural items were removed from the Greer site (Arkansas site number 3JE50), Jefferson County, AR, by C.B. Moore. The 18 unassociated funerary objects are 5 Wallace Incised bowls, 5 Mississippian Plain bowls, 5 Wallace Incised bottles, 2 Mississippian Plain bottles, and 1 Old Town red effigy bottle.

At an unknown date, two cultural items were removed from a cemetery at Forest Place, Lee County, AR, by C.B. Moore. The two unassociated funerary objects are one Mississippian Plain teapot and one Mississippian Plain bottle.

At an unknown date, one cultural item was removed from Kent Place (Arkansas site number 3LE8), Lee County, AR, by C.B. Moore. The one unassociated funerary object is an Old Town red bottle.

At an unknown date, 11 cultural items were removed from a mound near Douglas (Arkansas site number 3LI19), Lincoln County, AR, by C.B. Moore. The 11 unassociated funerary objects are 1 Mississippian Plain bottle, 1 Mississippian Plain crucible, 1 Nodena Red and White bottle, and 8 shell beads.

At an unknown date, one cultural item was removed from a mound in Mississippi County, AR, by C.B. Moore. The one unassociated funerary object is a pottery disk.

At an unknown date, 13 cultural items were removed from Pecan Point (Arkansas site number 3MS78), Mississippi County, AR, by C. B. Moore. The 13 unassociated funerary objects are 6 pottery disks with drilled holes, 1 Bell Plain effigy bowl, 1 small Bell Plain jar, 1 wide mouth Bell Plain bottle, 1 Bell Plain bottle, 1 Carson Red on Buff bottle, and 2 Bell Plain pedestal bottles.

At an unknown date, one cultural item was removed from Avenue (Arkansas site number 3PH3), Phillips County, AR, by C.B. Moore. The one unassociated funerary object is a Nodena Red and White bottle.

At an unknown date, three cultural items were removed from a cemetery at Cummings Place, also known as Cummins Place (Arkansas site number 3PO5), Poinsett County, AR, by C.B. Moore. The three unassociated funerary objects are two Bell Plain bottles and one Mississippian Plain bottle.

At an unknown date, two cultural items were removed from Miller Mound (Arkansas site number 3PO24), Poinsett County, AR, by C.B. Moore. The two unassociated funerary objects are one Bell Plain pedestal bottle and one Bell Plain jar.

At an unknown date, four cultural items were removed from Castile Place (Arkansas site number 3SF12), St. Francis County, AR, by C.B. Moore. The four unassociated funerary objects are one Mississippian Plain bowl, two Mississippian Plain bottles, and one Parkin Punctated jar.

The Quapaw Tribe, prior to European contact and during the Historic period, resided along both sides of the Mississippi River until an epidemic swept through their villages in the latter part of the 17th century. The Quapaw consolidated their villages on the western side of the Mississippi River near the confluence of the White and Arkansas Rivers. The Quapaw maintained a presence in the Central Mississippi Valley until the tribe's removal to northwest Louisiana in 1824 when all of their land in the Territory of Arkansas was ceded to the United States. European documentation concerning the geographical range of the Quapaw supports their presence in Arkansas, including the 10 counties listed above. Present–day descendants of the Quapaw people are members of the Quapaw Tribe of Indians, Oklahoma.

Officials of the Springfield Science Museum have determined that, pursuant to U.S.C. 3001 (3)(B), the 111 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the Springfield

Science Museum also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Quapaw Tribe of Indians, Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact David Stier, Director, Springfield Science Museum, 220 State Street, Springfield, MA 01103, (413) 263–6800, ext. 321, before March 9, 2007. Repatriation of the unassociated funerary objects to the Quapaw Tribe of Indians, Oklahoma may proceed after that date if no additional claimants come forward.

The Springfield Science Museum is responsible for notifying the Quapaw Tribe of Indians, Oklahoma that this notice has been published.

Dated: December 28, 2006.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–1969 Filed 2–6–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Thomas Burke Memorial Washington State Museum, University of Washington, Seattle, WA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Thomas Burke Memorial Washington State Museum (Burke Museum), University of Washington, Seattle, WA. The human remains were removed from Walla Walla County, WA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Burke Museum professional staff in consultation with representatives of the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; Nez Perce Tribe of Idaho; and Wanapum Band, a non–federally recognized Indian group.

In 1910, human remains representing a minimum of one individual were removed from an island at Burbank on the Columbia River below Pasco, Walla Walla County, WA, by Mr. Herbert J. Mohr. In 1966, the human remains were received from Mr. Mohr and accessioned by the Burke Museum (Burke Accn. #1966–24). No known individual was identified. No associated funerary objects are present.

The human remains have been identified as Native American based on osteological analysis of the cranium, as well as geographic information. The specific burial context of this individual is unknown, however, the human remains were found on an island on the Columbia River, which is consistent with ethnographic burial practices documented among the Palouse, Walla Walla, Wanapum, and Yakama.

Burbank is on the southeast bank of the confluence of the Snake and Columbia Rivers in Walla Walla County, WA. This area is located within the overlapping aboriginal territory of the Nez Perce, Palouse, Walla Walla, Wanapum, and Yakama. According to Indian Land Areas Judicially Established by the Indian Court of Claims in 1978 (Index #96), as well as early and late ethnographic documentation, this area is within the aboriginal territory of the Walla Walla. Furthermore, early ethnographic evidence indicates that the Palouse, Wanapum, and Yakama also occupied this area. Descendants of the Palouse, Walla Walla, Wanapum, and Yakama are members of the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; Nez Perce Tribe of Idaho; and Wanapum Band, a non–federally recognized Indian group.

Officials of the Burke Museum have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Burke Museum also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; and Nez Perce Tribe of Idaho. Furthermore, officials of the Burke Museum have determined there is a cultural relationship between the human remains and the Wanapum Band, a non–federally recognized Indian group.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Peter Lape, Burke Museum, University of Washington, Box 353010, Seattle, WA 98195–3010, telephone (206) 685–2282, before March 9, 2007. Repatriation of the human remains to the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Nez Perce Tribe of Idaho; and Confederated Tribes and Bands of the Yakama Nation, Washington on behalf of themselves and the Wanapum Band, a non–federally recognized Indian group, may proceed after that date if no additional claimants come forward.

The Burke Museum is responsible for notifying the Confederated Tribes of the Colville Reservation, Washington; Confederated Tribes of the Umatilla Reservation, Oregon; Confederated Tribes and Bands of the Yakama Nation, Washington; Nez Perce Tribe of Idaho; and Wanapum Band, a non–federally recognized Indian group, that this notice has been published.

Dated: January 10, 2007.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–1967 Filed 2–6–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate a Cultural Item: State Historical Society of Wisconsin, Madison, WI

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate a cultural item in the possession of the State Historical Society of Wisconsin, Madison, WI (also known as the Wisconsin Historical Society), that meets the definition of ''sacred object'' under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility

of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

The one cultural item is a war bundle and its contents. This war bundle was purchased from Little Winneshiek, a member of the Ho–Chunk Nation of Wisconsin, by Albert Green Heath on an unknown date. In 1955, the Logan Museum of Anthropology, Beloit College, Beloit, WI, purchased the Albert Green Heath Collection from Mr. Heath's heirs. The State Historical Society of Wisconsin purchased a portion of the Heath Collection, including Little Winneshiek's war bundle (SHSW #1956.8352, Heath #1532), from the Logan Museum in March of 1956.

During consultation, the Traditional Court of the Ho–Chunk Nation of Wisconsin identified Mr. Clayton Winneshiek and Mr. William Winneshiek as the lineal descendants of Little Winneshiek, the last known keeper of the bundle. The Traditional Court further indicated that both Mr. Clayton Winneshiek and Mr. William Winneshiek are both members of the Ho–Chunk Nation of Wisconsin and practitioners of the clan bundle feast. The war bundle will be used by present–day practitioners of the clan bundle feast of the Ho-Chunk Nation of Wisconsin.

Officials of the State Historical Society of Wisconsin have determined that, pursuant to 25 U.S.C. 3001 (3)(C), the one cultural item described above is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present–day adherents. Officials of the State Historical Society of Wisconsin also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the sacred object and the Ho–Chunk Nation of Wisconsin.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the sacred object should contact Jennifer Kolb, Deputy Director, Museum Division, Wisconsin Historical Society, 30 North Carroll Street, Madison, WI 53703, telephone (608) 261–2461, before March 9, 2007. Repatriation of the sacred object to the Ho–Chunk Nation of Wisconsin may proceed after that date if no additional claimants come forward.

The State Historical Society of Wisconsin is responsible for notifying the Ho–Chunk Nation of Wisconsin, Mr. Clayton Winneshiek, and Mr. William Winneshiek that this notice has been published.

Dated: December 21, 2006.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E7–1962 Filed 2–6–07; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Correction on Comment Request Deadline

January 31, 2007.

The Department of Labor (DOL) submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by calling Ira Mills on 202–693–4122 (this is not a toll-free number) or E-Mail: *Mills.Ira@dol.gov,* or by accessing *http://www.reginfo.gov/public/do/PRAMain.*

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for U.S. Department of Labor/Employment and Training Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll free number), within 30 days from January 30, 2007, the date this Notice was first published in the **Federal Register**. The deadline for comments was erroneously stated to be 45 days from the date of publication; the deadline is actually, as stated above, 30 days from the publication date of January 30, 2007.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Employment and Training Administration.

Type of Review: Extension of a currently approved collection.

Title: Workforce Investment Act: National Emergency Grant (NEG) Assistance—Application and Reporting Procedures.

OMB Number: 1205–0439.

Frequency: Quarterly.

Affected Public: State, Local, or Tribal Government.

Type of Response: Reporting.

Number of Respondents: 150.

Annual Responses: 1,565.

Average Response Time: 42 minutes.

Total Annual Burden Hours: 1,096.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 0.

Description: These application and reporting procedures for states and local entities enable them to access funds for National Emergency Grant (NEG) programs. NEGs are discretionary grants intended to complement the resources and service capacity at the state and local area levels by providing supplementary funding for workforce development and employment services and other adjustment assistance for dislocated workers and other eligible individuals as defined in sections 101, 134 and 173 of WIA: sections 113, 114, and 203 of the Trade Act of 2002 and 20 CFR 671.140.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. E7–1901 Filed 2–6–07; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

February 2, 2007.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained at *http://www.reginfo.gov/public/do/*

PRAMain, or contact Ira Mills on 202–693–4122 (this is not a toll-free number) or e-mail: *Mills.Ira@dol.gov.*

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for U.S. Department of Labor/Employment and Training Administration (ETA), Office of Management and Budget, Room 10235, Washington, DC 20503, 202–395–7316 (this is not a toll free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Agency: Employment and Training Administration.

Type of Review: Extension without change of a currently approved collection.

Title: Job Corps Application Data.

OMB Number: 1205–0025.

Frequency: On occasion.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions; and State, Local, or Tribal Government.

Type of Response: Recordkeeping and Reporting.

Number of Respondents: 87,943.

Annual Responses: 92,159.

Average Response Time: 11 minutes.

Total Annual Burden Hours: 16,158.

Total Annualized Capital/Startup Costs: 0.

Total Annual Costs (operating/maintaining systems or purchasing services): 0.

Description: ETA 652, 655, and 682 are used to obtain information for screening and enrollment purposes to determine eligibility for the Job Corps program in accordance with the requirements of the Workforce Investment Act. They concern questions of economic criteria, past behavior problems and to certify an applicant's arrangements for the care of a dependent child(ren) while the applicant is in Job Corps.

Ira L. Mills,

Departmental Clearance Officer/Team Leader.

[FR Doc. E7–2012 Filed 2–6–07; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,841]

Eagle Picher, Hillsdale Automotive, Traverse City, MI; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 26, 2007 in response to a worker petition filed by the International Union, United Automobile, Aerospace & Agricultural Implement Workers of America, Region 1D and Local Union 3032 on behalf of workers at Eagle Picher, Hillsdale Automotive, Traverse City, Michigan.

The petitioning group of workers is covered by an earlier petition (TA–W–60,821) filed on January 19, 2006 that is the subject of an ongoing investigation for which a determination has not yet been issued. Further investigation in this case would duplicate efforts and serve no purpose; therefore the investigation under this petition has been terminated.

Signed at Washington, DC this 26th day of January, 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–1961 Filed 2–6–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,526; TA–W–60,526A]

Hardwick Knitted Fabrics, Inc., West Warren, Massachusetts and Hardwick Knitted Fabrics, Inc., New York, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on December 12, 2006, applicable to workers of Hardwick Knitted Fabrics, Inc., West Warren, Massachusetts. The group was certified based on the determination that the workers' firm was a supplier to a primary firm whose workers were certified eligible to apply for adjustment assistance. The notice was published in the **Federal Register** on December 27, 2006 (71 FR 77800–77802).

The Department reviewed the certification for workers of the subject firm. The workers of the firm located at Hardwick's West Warren, Massachusetts facility produced circular knit fabric. Hardwick Knitted Fabrics, Inc. also had a sales office in New York, New York, but no affiliates or subsidiaries. The New York, New York, sales office has closed and all employees have been separated from employment.

The intent of the Department's certification is to include all workers of Hardwick Knitted Fabrics, Inc. who were secondarily affected by Hardwick's loss of business with a primary firm.

Based on newly acquired information regarding separations at Hardwick's New York sales office, the Department is amending the certification to extend eligibility to apply for worker adjustment assistance and alternative trade adjustment assistance to the workers of Hardwick Knitted Fabrics, Inc., New York, New York, along with the firm's workers in West Warren, Massachusetts.

The amended notice applicable to TA–W–60,526 is hereby issued as follows:

All workers of Hardwick Knitted Fabrics, West Warren, Massachusetts (TA–W–60,526), and Hardwick Knitted Fabrics, Inc., New York, New York (TA–W–60,526A), who became totally or partially separated from employment on or after November 30, 2005 through December 12, 2008, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act.

Signed at Washington, DC, this 24th day of January 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–1958 Filed 2–6–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,832]

Lear Corporation, Madisonville, KY; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 25, 2007 in response to a worker petition filed on behalf of workers of Lear Corporation, Madisonville, Kentucky.

This petition is a photocopy of the petition filed on January 16, 2007, that is the subject of an ongoing investigation for which a determination has not yet been issued (TA–W–60,764).

Since this petition was initiated in error, the investigation has been terminated.

Signed at Washington, DC this 29th day of January 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–1960 Filed 2–6–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–60,739]

Mega Brands, Rose Art Industries, LLC, Wood-Ridge, NJ; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on January 11, 2006, in response to a petition filed on behalf of workers of Mega Brands, Rose Art Industries, Wood-Ridge, New Jersey.

This worker group is covered by an existing certification. Workers of Rose Art Industries, LLC, which is a subsidiary of Mega Brands, Wood-Ridge, New Jersey, were certified eligible to apply for adjustment assistance on January 29, 2007, under petition number TA–W–60,319. Consequently, further investigation would serve no purpose and the investigation is terminated.

Signed at Washington, DC, this 30th day of January 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance

[FR Doc. E7–1959 Filed 2–6–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) number and alternative trade adjustment assistance (ATAA) by (TA–W) number issued during the period of January 15 through January 19, 2007.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Section (a)(2)(A), all of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. The sales or production, or both, of such firm or subdivision have decreased absolutely; and

C. Increased imports of articles like or directly competitive with articles produced by such firm or subdivision have contributed importantly to such workers' separation or threat of separation and to the decline in sales or production of such firm or subdivision; or

II. Section (a)(2)(B), both of the following must be satisfied:

A. A significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm, have become totally or partially separated, or are threatened to become totally or partially separated;

B. There has been a shift in production by such workers' firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by such firm or subdivision; and

C. One of the following must be satisfied:

1. The country to which the workers' firm has shifted production of the articles is a party to a free trade agreement with the United States;

2. The country to which the workers' firm has shifted production of the articles to a beneficiary country under the Andean Trade Preference Act, African Growth and Opportunity Act, or the Caribbean Basin Economic Recovery Act; or

3. There has been or is likely to be an increase in imports of articles that are like or directly competitive with articles which are or were produced by such firm or subdivision.

Also, in order for an affirmative determination to be made for secondarily affected workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) Significant number or proportion of the workers in the workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm (or subdivision) is a supplier or downstream producer to a firm (or subdivision) that employed a group of workers who received a certification of eligibility to apply for trade adjustment assistance benefits and such supply or production is related to the article that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied for the firm (or subdivision) described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm (or subdivision) described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for the Division of Trade Adjustment Assistance to issue a certification of eligibility to apply for Alternative Trade Adjustment Assistance (ATAA) for older workers, the group eligibility requirements of Section 246(a)(3)(A)(ii) of the Trade Act must be met.

1. Whether a significant number of workers in the workers' firm are 50 years of age or older.

2. Whether the workers in the workers' firm possess skills that are not easily transferable.

3. The competitive conditions within the workers' industry (*i.e.*, conditions within the industry are adverse).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact

date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) of the Trade Act have been met.

TA-W–60,305; Steven Labels, Inc., Main Plant, Santa Fe Springs, CA: October 16, 2005.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

None.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) of the Trade Act have been met.

None.

Affirmative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA-W–60,449; Cambridge Lee Industries, LLC, Plant #2 and Plant #3 and Workers of Gage Personnal, Reading, PA: November 9, 2005.

TA-W–60,449A; Cambridge Lee Industries, LLC, Corporate Office, Reading, PA: November 9, 2005.

TA-W–60,644; ISM Fastening Systems, Butler, PA: May 6, 2006.

TA-W–60,658; Victor Mill, Inc., Greenville, SC: December 14, 2005.

TA-W–60,748; Eljer, Inc., Ford City, PA: October 5, 2006.

TA-W–60,407; J.L. French Automotive Castings, Inc., Benton Harbor, MI: November 7, 2005.

TA-W–60,568; Fiberweb, Inc., Bethune, SC: December 8, 2005.

TA-W–60,633; Alexvale Furniture Co., Plant Offices, Taylorsville, NC: December 15, 2005.

TA-W–60,648; Potlatch Forest Products Corp., Prescott, AR: December 19, 2005.

TA-W–60,652; Celestica, Fulfillment Services Division, Charlotte, NC: December 19, 2005.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA-W–60,598; Checkpoint Caribbean Limited, Ponce, PR: December 13, 2005.

TA-W–60,603; Wetherill Associates, Inc., Royersford, PA: December 7, 2005.

TA-W–60,619; Alcan Packaging, Inc., Lincoln Park, NJ: December 1, 2005.

TA-W–60,628; Quadra Fab Corporation, Plattsburgh, NY: December 15, 2005.

TA-W–60,646; Hollister, Inc., Kirksville Manufacturing Facility, Kirksville, MO: February 12, 2006.

TA-W–60,686: Simonds Industries, Inc., File Division, Newcomerstown, OH: December 28, 2005.

TA-W–60,688; Lego Systems, Inc., On-Site Workers From Staff Management, Enfield, CT: January 2, 2006.

TA-W–60,735; Waterloo Industries, Inc., Pocahontas, AR: January 9, 2006.

TA-W–60,583; Pulaski Furniture Corporation, Plant 1, Pulaski, VA: December 12, 2005.

TA-W–60,583A; Pulaski Furniture Corporation, Administration Office, Pulaski, VA: December 12, 2005.

TA-W–60,671; Dura Automotive Systems, Inc., Atwood Mobile Products, West Union, IA: December 21, 2005.

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA-W–60,582; Harodite Industries, Inc., Southern Division, Travelers Rest, SC: December 11, 2005.

The following certifications have been issued. The requirements of Section 222(b) (downstream producer for a firm whose workers are certified eligible to apply for TAA based on increased imports from or a shift in production to Mexico or Canada) and Section 246(a)(3)(A)(ii) of the Trade Act have been met.

TA-W–60,476; Ultraflex, Division of Hickory Springs Mfg., High Point, NC: November 22, 2005.

Negative Determinations for Alternative Trade Adjustment Assistance

In the following cases, it has been determined that the requirements of 246(a)(3)(A)(ii) have not been met for the reasons specified.

The Department has determined that criterion (1) of Section 246 has not been met. Workers at the firm are 50 years of age or older.

None.

The Department has determined that criterion (2) of Section 246 has not been met. Workers at the firm possess skills that are easily transferable.

TA–W–60,305: Steven Labels, Inc., Main Plant, Santa Fe Springs, CA.

The Department has determined that criterion (3) of Section 246 has not been met. Competition conditions within the workers' industry are not adverse.

None.

Negative Determinations for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

Because the workers of the firm are not eligible to apply for TAA, the workers cannot be certified eligible for ATAA.

The investigation revealed that criteria (a)(2)(A)(I.A.) and (a)(2)(B)(II.A.) (employment decline) have not been met.

TA–W–60,618; Lockheed Martin MS2, Surface Systems Division, Moorestown, NJ.

The investigation revealed that criteria (a)(2)(A)(I.B.) (Sales or production, or both, did not decline) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–60,624; R and A Tool and Engineering, Westland, MI.

The investigation revealed that criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.B.) (shift in production to a foreign country) have not been met.

TA–W–60,305A; Steven Labels, Inc., Membrane Plant, Santa Fe Springs, CA.

TA–W–60,305B; Steven Labels, Inc., Roll Label Plant, Santa Fe Springs, CA.

TA–W–60,499; Eaton Corporation, Engine Air Management Operations, Belmond, IA.

TA–W–60,683; Chesmore Seed Company, St. Joseph, MO.

The investigation revealed that the predominate cause of worker separations is unrelated to criteria (a)(2)(A)(I.C.) (increased imports) and (a)(2)(B)(II.C) (shift in production to a foreign country under a free trade agreement or a beneficiary country

under a preferential trade agreement, or there has been or is likely to be an increase in imports).

None.

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–60,488; Tellabs, Inc., Customer Distribution Center, Petaluma, CA.
TA–W–60,698; Commonwealth Sprague Capacitor, Inc., North Adams, MA.
TA–W–60,447; Honeywell International, Inc., Aerospace Information Technology Function, Phoenix, AZ.

The investigation revealed that criteria of Section 222(b)(2) has not been met. The workers' firm (or subdivision) is not a supplier to or a downstream producer for a firm whose workers were certified eligible to apply for TAA.

None.

I hereby certify that the aforementioned determinations were issued during the period of January 15 through January 19, 2007. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: January 26, 2007.

Ralph Dibattista,

Director, Division of Trade Adjustment Assistance.

[FR Doc. E7–1953 Filed 2–6–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–55,495]

Tesco Technologies, LLC, Headquarters Office, Auburn Hills, MI; Notice of Revised Determination on Second Remand

On November 9, 2006, the United States Court of International Trade (USCIT) remanded *Former Employees of Tesco Technologies, LLC* v. *United States* (Court No. 05–00264) to the Department of Labor (Department) for further investigation.

In the August 19, 2004, Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) petition, three workers identified Tesco Engineering as the subject company and the article produced as ''designs for tooling and production lines for General Motors automotive assembly plants.'' The petitioners alleged that Tesco Engineering was shifting production to a foreign country.

During the investigation, it was revealed that Tesco Engineering manufactured equipment, while workers at Tesco Technologies, LLC (''Tesco Technologies''), a subsidiary of Tesco Engineering, created mechanical designs used to build equipment for automotive part production. Since the petitioners created designs and did not produce equipment, the Department identified Tesco Technologies as the proper subject company.

Because the Department considered design creation not to be production, the Department concluded that the designers of Tesco Technologies could be certified only if they supported an affiliated, TAA-certifiable, domestic, production facility. Although Tesco Technologies' designs accounted for an insignificant portion of the equipment produced at Tesco Engineering, the Department nonetheless fully investigated whether, during the relevant period, there were increased imports of production/assembly equipment or a shift of production from Tesco Engineering to an overseas facility.

The expanded investigation revealed that Tesco Engineering neither shifted production to a foreign country nor imported any equipment during the relevant period. Further, a survey of Tesco Engineering's major declining customers revealed that, during the relevant period, no customer increased its import purchases while decreasing its purchases from the subject firm.

On September 27, 2004, the Department issued a denial regarding workers' eligibility to apply for TAA and ATAA for workers of Tesco Technologies, LLC, Headquarters Office, Auburn Hills, Michigan. The determination was based on the findings that there was neither an increase in imports of equipment by Tesco Engineering or its major declining customers, nor a shift of production overseas by Tesco Engineering. The Department published the Notice of determination in the **Federal Register** on October 26, 2004 (69 FR 62460).

By application dated October 22, 2004, the petitioner requested administrative reconsideration of the Department's determination. On December 7, 2004, the Department issued a Notice of Affirmative Determination Regarding Application for Reconsideration due to factual discrepancies identified during the review of the request and of previously-submitted documents. The Department's Notice was published in the **Federal Register** on December 20, 2004 (69 FR 76017).

In the request for reconsideration, the petitioner identified the subject company as ''Tesco Technologies, LLC, Auburn Hills, Michigan'' and asserted that ''we the petitioners are connected to General Motors tooling only,'' reiterated that designs are a product, and inferred that designers are de facto production workers producing automobile parts for General Motors. The petitioner also implied that the subject company's major customer, General Motors, had outsourced work to India.

During the reconsideration investigation, the Department contacted a Tesco Technologies official, the General Motors officials identified by the petitioner, and the General Motors official who supervised the design contract at issue.

During the reconsideration investigation, the Department confirmed that the petitioners used application software to develop tooling designs which were used to build equipment for the production of automobile parts for General Motors; the designs are developed at Tesco Technologies, Auburn Hills, Michigan and sent to the customer via electronic means (such as the Internet) and tangible means (such as CD–ROM); and General Motors did not outsource work overseas but awarded the work to another domestic company and moved some design work in-house.

On January 11, 2005, the Department issued a Notice of Negative Determination Regarding Application for Reconsideration which stated there was neither a shift of production abroad by Tesco Technologies nor any outsourcing of design work overseas by General Motors. The Department's Notice was published in the **Federal Register** on January 21, 2005 (70 FR 3228).

By letter dated February 8, 2005, the petitioners appealed to the USCIT for judicial review. On May 25, 2005, the USCIT granted the Department's motion for voluntary remand to clarify the Department's basis for the negative determination on reconsideration and to request additional information in the Department's efforts to clarify the reasons for the previous determinations.

In the request for judicial review, the petitioners alleged that engineers were brought in from India to train at Tesco Technologies; later, the engineers were sent back to India to a General Motors facility; and ''work is sent over to India via satellite in the evening and sent back for check and inspection in the

morning'' (implying that designs were being imported).

In order for the Plaintiffs to be certified for TAA based on a shift of production, it must be shown that there was:

(1) A significant portion or number of workers at the subject company separated or threatened with separation during the relevant period; and

(2) either—(a) A shift in production of articles like or directly competitive with those produced by the subject worker group to a country that is party to a free trade agreement with the United States, or a country that is named as a beneficiary under the Andean Trade Preference Act, the African Growth and Opportunity Act or the Caribbean Basin Economic Recovery Act, or (b) a shift of production abroad followed by actual or increased imports of articles like or directly competitive with those produced by the subject worker group.

Because it was shown that at least five percent of workers at Tesco Technologies were separated during the relevant period, the worker separation criterion was met.

Because India is not a country that is party to a free trade agreement with the United States, or a country that is named as a beneficiary under the Andean Trade Preference Act, the African Growth and Opportunity Act or the Caribbean Basin Economic Recovery Act, the only issue in the first remand investigation was whether, during the relevant period, there was a shift of production abroad of articles like or directly competitive with those produced by Tesco Technologies followed by actual or threatened increased imports of articles like or directly competitive with those created at Tesco Technologies.

Under the Department's interpretation of ''like or directly competitive,'' (29 CFR 90.2) ''like'' articles are those articles which are substantially identical in inherent or intrinsic characteristics and ''directly competitive'' articles are those articles which are substantially equivalent for commercial purposes (essentially interchangeable and adapted to the same uses), even though the articles may not be substantially identical in their inherent or intrinsic characteristics.

During the first remand investigation, the Department determined that because each design created by the workers is ''unique,'' there could not be any articles which are like or directly competitive with any design produced by Tesco Technologies and, consequently, the shift of production criterion could not be met.

The Notice of Negative Determination on Remand applicable to the subject workers was issued on July 25, 2005 and the Notice of determination was published in the **Federal Register** on August 5, 2005 (70 FR 45438).

In its November 9, 2006 opinion, the USCIT remanded the case at hand to the Department for further investigation.

Since the Notice of Negative Determination on Remand applicable to the subject firm was issued, the Department has clarified its policy to acknowledge that, under certain circumstances, there may be articles which are like or directly competitive to a ''unique'' article.

Reviewing the relevant facts with the foregoing in mind, the Department has determined that, during the relevant period, a significant portion of workers was separated from the subject facility, design production shifted abroad, and the subject firm increased its imports of designs following the shift.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department herein presents the results of its investigation regarding certification of eligibility to apply for ATAA for older workers. In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in the case at hand that the requirements of Section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

Conclusion

After careful review of the facts generated through the second remand investigation, I determine that a shift in production abroad of articles like or directly competitive to that produced at the subject facilities followed by increased imports of such articles contributed to the total or partial separation of a significant number or proportion of workers at the subject facility. In accordance with the provisions of the Act, I make the following certification:

All workers of Tesco Technologies, LLC, Headquarters Office, Auburn Hills, Michigan, who became totally or partially separated from employment on or after August 19, 2003, through two years from the issuance of this revised determination, are eligible to apply for Trade Adjustment Assistance under Section 223 of the Trade Act of 1974, and are eligible to apply for Alternative Trade Adjustment Assistance under Section 246 of the Trade Act of 1974, as amended.

Signed at Washington, DC this 26th day of January 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–1955 Filed 2–6–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,274]

Thomson, Inc., Circlesville Glass Operations, Circleville, OH; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a certification of eligibility to apply for Trade Adjustment Assistance (TAA) on August 7, 2003, applicable to workers and former workers of Thomson, Inc., Circleville Glass Operations, Circleville, Ohio. The Department's Notice was published in the **Federal Register** on September 2, 2003 (68 FR 52228). The workers were engaged in the production of glass components of picture tubes prior to the subject firm's closure in June 2004.

On March 8, 2005, the Department issued a certification of eligibility for Alternative Trade Adjustment Assistance (ATAA) covering workers of the subject firm separated from employment on or after June 27, 2002 through August 7, 2005. The Department's Notice was published in the **Federal Register** on April 1, 2005 (70 FR 16851).

Even though production activity ceased in June 2004, the State of Ohio required the subject firm to submit within ninety days a cessation of operations plan and to undertake an 18-month process for the identification and remediation of any hazards left over from the manufacturing process. At the time of the shutdown, the subject firm retained fifteen employees (''shutdown workers'') solely for purposes of the shutdown process.

The shutdown workers subsequently petitioned for TAA/ATAA benefits (TA–W–59,118), referring to TA–W–52,274 for support. The Department determined in TA–W–59,118 that the shutdown workers were ineligible for benefits because there was no production at the subject facility during the relevant

period. The petitioners appealed the Department's negative determination to the U.S. Court of International Trade (Court No. 06–00266). The Department subsequently obtained a voluntary remand for the purpose of further review and a redetermination of the workers' eligibility to apply for worker adjustment assistance.

During the ensuing remand process for TA–W–59,118, the Department determined that there was a causal nexus between the subject firm's shutdown of operations and the shutdown workers' separations and that, therefore, the separations of the workers through December 31, 2006 are attributable to the conditions specified in section 222 of the Trade Act. The Department has further determined that, given the particular facts presented, it is appropriate to amend the certification of the immediate petition to include those workers involved in cessation of operations activities who were separated after August 7, 2005.

The Department's decision in this case is limited to the precise circumstances of this specific case and should not be considered as any indication of how the Department would proceed in other cases or in any subsequent rulemaking on this subject.

The amended notice applicable to TA–W–52,274 is hereby issued as follows:

''All workers of Thomson, Inc., Circleville Glass Operations, Circleville, Ohio (TA–W–52,274), who became totally or partially separated from employment on or after June 27, 2002 through December 31, 2006, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act.''

Signed at Washington, DC, this 25th day of January 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–1954 Filed 2–6–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–59,118]

Thomson, Inc., Circleville, OH; Notice of Termination of Investigation

On October 27, 2006, the U.S. Court of International Trade (USCIT) granted the Department of Labor's consent motion for voluntary remand in *Former Employees of Thomson, Inc.* v. *United States*, Court No. 06–0266.

On March 24, 2006, three workers filed a petition for Trade Adjustment Assistance (TAA) and Alternative Trade Adjustment Assistance (ATAA) on behalf of workers and former workers of Thomson, Inc., Circleville, Ohio. The petition stated that the subject workers' task was ''decommission facility,'' that the facility closed on June 25, 2004, that the subject facility was previously certified (TA–W–52,274; expired), and that the ''remaining employees should be considered for benefits.''

On May 10, 2006, the Department of Labor (Department) issued a negative determination regarding the subject worker group's eligibility to apply for TAA and ATAA, stating that the workers do not produce an article within the meaning of the Trade Act of 1974. The Department's Notice of determination was published in the **Federal Register** on May 24, 2006 (71 FR 29984).

In a letter dated May 24, 2006, three workers requested administrative reconsideration by the Department. The workers implied that because the petitioning worker group is part of the group certified under TA–W–52,274 and remained working at the subject facility after production ceased and beyond the certification period for TA–W–52,274 (August 7, 2005), they should be considered eligible to apply for TAA and ATAA.

By letter dated June 19, 2006, the Department dismissed the workers' request for reconsideration. The Department's Notice of dismissal was issued in June 20, 2006 and published in the **Federal Register** on July 6, 2006 (71 FR 38425).

In a letter dated August 1, 2006, the workers requested judicial review. In the complaint, the workers stated that the subject firm ceased operations in April 2004, that they were employed past April 2004 to ''perform mandated requirements under the Cessation of Regulations Operations,'' and ''our jobs were lost to foreign competition the same as the other employees of Thomson, Inc. in Circleville, Ohio.'' In response to the complaint, the Department filed an administrative record.

The Department subsequently moved for a voluntary remand, so that the Department could conduct a further review and make a redetermination of eligibility. On October 27, 2006, the Department's motion was granted.

During the initial investigation for this petition, the Department was informed by a company official that the subject workers were employed in order for the company to satisfy a State-mandated plant closure process. This process required the company to submit a ''Cessation of Regulated Operations'' (CRO) plan that addressed the removal of all hazardous materials. The State-approved CRO plan required an 18-month implementation schedule. The subject facility ceased production in April 2004 and entered the CRO phase in June 2004.

After careful review during the remand investigation, the Department determines that the workers who continued their employment with the subject firm to execute the CRO plan and complete shutdown functions are part of the worker group covered by TA–W–52,274. The Department's determination is based on the causal nexus between the subject facility's closure and the workers' separations.

On March 8, 2005, the Department issued a certification of eligibility to apply for ATAA under petition TA–W–52,274. The Department's Notice was published in the **Federal Register** on April 1, 2005 (70 FR 16851).

On January 25, 2007, the Department amended the TAA/ATAA certification of TA–W–52,274 to cover workers of the subject firm separated from employment on or after June 27, 2002 through December 31, 2006.

Since the subject workers are covered by TA–W–52–274, further investigation in this case would serve no purpose and the investigation has been terminated.

Conclusion

After careful review of the findings of the remand investigation, I am terminating the investigation of the petition for worker adjustment assistance filed on behalf of workers and former workers of Thomson, Inc., Circleville, Ohio.

Signed at Washington, DC this 25th day of January 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–1957 Filed 2–6–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–58,623L; TA–W–58,623EE; TA–W–58,623FF]

Westpoint Home, Inc., Formerly Westpoint Stevens, Inc., Sales and Marketing Office, New York, NY; Including Employees of Westpoint Home, Inc., Formerly Westpoint Stevens, Inc., Sales and Marketing Office, New York, NY Employees Working at the Following Locations: Malvern, PA, Santa Fe Springs, CA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273), and Section 246 of the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor issued a Notice of Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on February 21, 2006, applicable to workers of WestPoint Home, Inc., formerly WestPoint Stevens, Inc., Sales and Marketing Office, New York, New York. The notice was published in the **Federal Register** on March 22, 2006 (71 FR 14549).

At the request of a company official, the Department reviewed the certification for workers of the subject firm.

New information shows that worker separations have occurred involving employees of the Sales and Marketing Office, New York, New York of WestPoint Home, Inc., formerly WestPoint Stevens, Inc. located in Malvern, Pennsylvania and Santa Fe Springs, California. Mr. Jim Connolly and Ms. Janice Antista provided support services for the manufacture of comforters, sheets, pillowcases, towels and blankets produced by WestPoint Home, Inc., formerly WestPoint Stevens, Inc.

Based on these findings, the Department is amending this certification to include employees of the Sales and Marketing Office New York, New York facility of WestPoint Home, Inc., formerly WestPoint Stevens, Inc. located in Malvern, Pennsylvania and Santa Fe Springs, California.

The intent of the Department's certification is to include all workers of WestPoint Home, Inc., formerly WestPoint Stevens, Inc., Sales and Marketing Office, New York, New York who were adversely affected by increased company and customer imports.

The amended notice applicable to TA–W–58,623L is hereby issued as follows:

All workers of WestPoint Home, Inc., formerly WestPoint Stevens, Inc., Sales and Marketing Office, New York, New York (TA–W–58,623L), including employees reporting to this office but working in Malvern, Pennsylvania (TA–W–58,623EE) and Santa Fe Springs, California (TA–W–58,623FF), who became totally or partially separated from employment on or after January 12, 2005, through February 21, 2008, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 31st day of January 2007.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–1956 Filed 2–6–07; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection, Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. The Bureau of Labor Statistics (BLS) is soliciting comments concerning the proposed extension of the ''Report on Occupational Employment and Wages.'' A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the Addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before April 9, 2007.

ADDRESSES: Send comments to Amy A. Hobby, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue, NE., Washington, DC 20212, 202–691–7628. (This is not a toll free number.)

FOR FURTHER INFORMATION CONTACT: Amy A. Hobby, BLS Clearance Officer, 202–691–7628. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

The Occupational Employment Statistics (OES) survey is a Federal/State establishment survey of wage and salary workers designed to produce data on current occupational employment and wages. OES survey data assist in the development of employment and training programs established by the 1998 Workforce Investment Act (WIA), and the Perkins Vocational Education Act of 1998.

The OES program operates a periodic mail survey of a sample of non-farm establishments conducted by all fifty States, Guam, Puerto Rico, the District of Columbia, and the Virgin Islands. Over three-year periods, data on occupational employment and wages are collected by industry at the four- and five-digit North American Industry Classification System (NAICS) levels. The Department of Labor uses OES data in the administration of the Foreign Labor Certification process under the Immigration Act of 1990.

II. Current Action

Office of Management and Budget clearance is being sought for the Occupational Employment Statistics (OES) program. Occupational employment data obtained by the OES survey are used to develop information regarding current and projected employment needs and job opportunities. These data assist in the development of State vocational education plans. OES wage data provide a significant source of information to support a number of different Federal, State, and local efforts.

After being rigorously tested in six volunteer States, email collection has been implemented successfully in all fifty States. Currently, six percent of establishments submit data by email. These six percent of establishments account for twenty six percent of collected employment for the November 2005 panel.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information will have practical utility.

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

Type of Review: Extension of a currently approved collection.

Agency: Bureau of Labor Statistics.

Title: Report on Occupational Employment and Wages.

OMB Number: 1220–0042.

Affected Public: Business or other for-profit, Not-for-profit institutions, Federal Government, State, Local, or Tribal Government.

Total Respondents: 315,900.

Frequency: Semi-annually.

Total Responses: 315,900.

Average Time Per Response: 45 minutes.

Estimated Total Burden Hours: 236,925.

Total Burden Cost (capital/startup): $00.00.

Total Burden Cost (operating/maintenance): $00.00.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 2nd day of February, 2007.

Cathy Kazanowski,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. E7–1984 Filed 2–6–07; 8:45 am]

BILLING CODE 4510–24–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of National Council on the Humanities

AGENCY: The National Endowment for the Humanities, NFAH.

ACTION: Notice of meeting.

Pursuant to the provisions of the Federal Advisory Committee Act (Public L. 92–463, as amended) notice is hereby given that the National Council on the Humanities will meet in Washington, DC on February 22–23, 2007.

The purpose of the meeting is to advise the Chairman of the National Endowment for the Humanities with respect to policies, programs, and procedures for carrying out his functions, and to review applications for financial support from and gifts offered to the Endowment and to make recommendations thereon to the Chairman.

The meeting will be held in the Old Post Office Building, 1100 Pennsylvania Avenue, NW., Washington, DC. A portion of the morning and afternoon sessions on February 22–23, 2007, will not be open to the public pursuant to subsections (c)(4), (c)(6) and (c)(9)(B) of section 552b of Title 5, United States Code because the Council will consider information that may disclose: trade secrets and commercial or financial information obtained from a person and privileged or confidential; information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and information the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action. I have made this determination under the authority granted me by the Chairman's Delegation of Authority dated July 19, 1993.

The agenda for the sessions on February 22, 2007 will be as follows:

Committee Meetings

(Open to the Public)

Policy Discussion

9 a.m.–10:30 a.m.
Education Programs—Room M–07
Federal/State Partnership—Room 510
Preservation and Access—Room 415
Public Programs—Room 420
Research Programs—Room 315

(Closed to the Public)

Discussion of Specific Grant Applications and Programs Before the Council

10:30 a.m. until Adjourned
Education Programs—Room M–07
Federal/State Partnership—Room 510
Preservation and Access—Room 415
Public Programs—Room 420
Research Programs—Room 315

2 p.m.–4 p.m.
Jefferson Lecture—Room 527

The morning session of the meeting on February 23, 2007 will convene at 9 a.m., in the first floor Council Room M–09, and will be open to the public, as set out below. The agenda for the morning session will be as follows:

A. Minutes of the Previous Meeting

B. Reports

1. Introductory Remarks.
2. Staff Report.
3. Congressional Report.
4. Budget Report.
5. Reports on Policy and General Matters:
a. Education Programs,
b. Federal/State Partnership,
c. Preservation and Access,
d. Digital Humanities Initiative,
e. Public Programs,
f. Research Programs,
g. Jefferson Lecture.

The remainder of the proposed meeting will be given to the consideration of specific applications and will be closed to the public for the reasons stated above.

Further information about this meeting can be obtained from Heather Gottry, Acting Advisory Committee Management Officer, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, or by calling (202) 606–8322, TDD (202) 606–8282. Advance notice of any special needs or accommodations is appreciated.

Heather C. Gottry,

Acting Advisory Committee Management Officer.

[FR Doc. E7–2004 Filed 2–6–07; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL SCIENCE FOUNDATION

Notice of the Availability of a Draft Environmental Assessment

AGENCY: National Science Foundation.

ACTION: Notice of availability of a draft Environmental Assessment for proposed activities in the Indian Ocean.

SUMMARY: The National Science Foundation (NSF) gives notice of the availability of a draft Environmental Assessment (EA) for proposed activities in the Indian Ocean.

The Division of Ocean Sciences in the Directorate for Geosciences (GEO/OCE) has prepared a draft Environmental Assessment for a low-energy marine seismic survey by the Research Vessel *Roger Revelle* in the northeastern Indian Ocean, in international waters (1600–5100 meters depth) roughly between 5° N and 25° S, along ~90° E during May–August 2007. The draft Environmental Assessment is available for public review for a 30-day period.

DATES: Comments must be submitted on or before March 9, 2007.

ADDRESSES: Copies of the draft Environmental Assessment are available

upon request from; Dr. William Lang, National Science Foundation, Division of Ocean Sciences, 4201 Wilson Blvd., Suite 725, Arlington, VA 22230. Telephone: (703) 292–7857. The draft is also available on the agency's Web site at *http://www.nsf.gov/geo/oce/pubs/Scripps_NE_Indian_Ocean_EA.pdf.*

SUPPLEMENTARY INFORMATION: The Scripps Institution of Oceanography (SIO), with research funding from the NSF, plans to conduct scientific research at nine sites in international waters on the Ninety East Ridge in the northeastern Indian Ocean for ~55 days during May–August 2007. Research activities will include rock-dredging and magnetic, bathymetric, and seismic surveys. The seismic survey will use a towed array of two generator/injector (GI) airguns, totaling an air discharge volume of 90 in^3. The GI guns will be used for ~49 h at each of 5 sites on the Ninety East Ridge in water depths of 1600 to 5100 meters. The results will be used to study the morphology, structure, and tectonics of ridge volcanoes, to infer the magmatic evolution of the ridge, and to survey broad characteristics of subseafloor in order to refine the planning of an Integrated Ocean Drilling Program (IODP) drilling proposal.

SIO has applied for the issuance of an Incidental Harassment Authorization (IHA) from the National Marine Fisheries Services (NMFS) to authorize the incidental harassment of small numbers of marine mammals during the seismic survey. The information in this Environmental Assessment supports the IHA permit application process, provides information on marine species not covered by the IHA, and addresses the requirements of Executive Order 12114, ''Environmental Effects Abroad of Major Federal Actions''. Alternatives addressed in this EA consist of a corresponding seismic survey at a different time, along with issuance of an associated IHA; and the no action alternative, with no IHA and no seismic survey.

Numerous species of cetaceans and sea turtles occur in the northeastern Indian Ocean. Several of the species are listed as Endangered under the U.S. Endangered Species Act (ESA), including humpback, sei, fin, blue, and sperm whales. Other species of special concern that could occur in the area include the endangered (under the ESA) leatherback and hawksbill turtles, and the threatened (under the ESA) loggerhead, olive ridley, and green turtles.

The potential impacts of the seismic survey would be primarily a result of the operation of small airguns, although a multi-beam sonar and a sub-bottom profiler will also be operated. Impacts may include increased marine noise and resultant avoidance behavior by marine mammals, sea turtles, and fish; and other forms of disturbance. The operations of the project vessel during the study would also cause a minor increase in the amount of vessel traffic. An integral part of the planned survey is a monitoring and mitigation program designed to minimize the impacts of the proposed activities on marine mammals and sea turtles that may be present during the proposed research, and to document the nature and extent of any effects. Injurious impacts to marine mammals and sea turtles have not been proven to occur near airgun arrays; however, the planned monitoring and mitigation measures would minimize the possibility of such effects should they otherwise occur.

Protection measures designed to mitigate the potential environmental impacts will include the following: A minimum of one dedicated marine mammal observer maintaining a visual watch during all daytime airgun operations, and two observers for 30 min. before start up. The small size of the airguns, restricting their use to deep (1600–5100 m) water, and ramp-up and shut-down procedures are also inherent mitigation measures. SIO and its contractors are committed to apply those measures in order to minimize disturbance of marine mammals and sea turtles, and also to minimize the risk of injuries or of other environmental impacts.

With the planned monitoring and mitigation measures, unavoidable impacts to each of the species of marine mammal that might be encountered are expected to be limited to short-term localized changes in behavior and distribution near the seismic vessel. At most, such effects may be interpreted as falling within the Marine Mammal Protection Act (MMPA) definition of ''Level B Harassment'' for those species managed by NMFS. No long-term or significant effects are expected on individual marine mammals, or the populations to which they belong, or their habitats. The agency is currently consulting with the NMFS regarding species within their jurisdiction potentially affected by this proposed activity.

Copies of the draft EA, titled ''Environmental Assessment of Planned Low-Energy Marine Seismic Survey by the Scripps Institution of Oceanography in the Northeast Indian Ocean, May–August 2007,'' are available upon request from: Dr. William Lang, National Science Foundation, Division of Ocean Sciences, 4201 Wilson Blvd., Suite 725, Arlington, VA 22230. Telephone: (703) 292–7857 or at the agency's Web site at: *http://www.nsf.gov/oce/pubs/Scripps NE_Indian_Ocean_EA.pdf.* The NSF invites interested members of the public to provide written comments on this draft EA.

Alexander Shor,

Program Director, Environmental Operations, Division of Ocean Sciences, National Science Foundation.

[FR Doc. 07–532 Filed 2–6–07; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:*

NRC Form 136, ''Security Termination Statement'',

NRC Form 237, ''Request for Access Authorization'',

NRC Form 277, ''Request for Visit''.

2. *Current OMB approval number:*

3150–0049, NRC Form 136,

3150–0050, NRC Form 237,

3150–0051, NRC Form 277.

3. *How often the collection is required:* On occasion.

4. *Who is required or asked to report:* NRC Form 136, any employee of 68 licensees and 7 contractors, who have been granted an NRC access authorization; NRC Form 237, any employee of approximately 68 licensees and 7 contractors who will require access authorization. NRC Form 277, any employee of 2 current NRC contractors who holds an NRC access authorization, and needs to make a visit to NRC, other contractors/licensees or government agencies in which access to classified information will be involved or unescorted area access is desired.

5. *The number of annual respondents:*

NRC Form 136: 75.

NRC Form 237: 75.
NRC Form 277: 2.

6. *The number of hours needed annually to complete the requirement or request:*
NRC Form 136: 23.
NRC Form 237: 84.
NRC Form 277: 1.

7. *Abstract:* The NRC Form 136 affects the employees of licensees and contractors who have been granted an NRC access authorization. When access authorization is no longer needed, the completion of the form apprizes the respondents of their continuing security responsibilities. The NRC Form 237 is completed by licensees, NRC contractors or individuals who require an NRC access authorization. The NRC Form 277 affects the employees of contractors who have been granted an NRC access authorization and require verification of that access authorization and need-to-know in conjunction with a visit to NRC or another facility.

Submit, by April 9, 2007, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?
2. Is the burden estimate accurate?
3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?
4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Margaret A. Janney (T–5 F52), U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, by telephone at 301–415–7245, or by Internet electronic mail to *INFOCOLLECTS@NRC.GOV.*

Dated at Rockville, Maryland, this 31st day of January 2007.

For the Nuclear Regulatory Commission.

Margaret A. Janney,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E7–2037 Filed 2–6–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–245]

Dominion Nuclear Connecticut, Inc.; Millstone Power Station Unit 1 Partial Exemption From Requirements

1.0 Background

Dominion Nuclear Connecticut, Inc. (Dominion, the licensee) is the licensee and holder of Facility Operating License No. DPR–21 for the Millstone Power Station Unit 1 (Millstone Unit 1), a permanently shutdown decommissioning nuclear plant. Although permanently shutdown, this facility is still subject to all rules, regulations, and orders of the U.S. Nuclear Regulatory Commission (NRC).

Millstone Unit 1 was a single-cycle, boiling water reactor with a Mark I containment which was designed, furnished and constructed by General Electric Company as prime contractor for the licensee. Millstone Unit 1 had a reactor thermal output of 2011 megawatts and a net electrical output of 652.1 megawatts. The Millstone site is located in the town of Waterford, New London County, Connecticut, on the north shore of Long Island Sound.

Construction of Millstone Unit 1 was authorized by a provisional construction permit CPPR–20, on May 19, 1966, in AEC Docket 50–245. Millstone Unit 1 was completed and ready for fuel loading during October 1970. The plant went into commercial operation on December 28, 1970. On July 21, 1998, pursuant to 10 CFR 50.82(a)(1)(i) and 10 CFR 50.82(a)(1)(ii), the licensee certified to the NRC that, as of July 17, 1998, Millstone Unit No. 1 had permanently ceased operations and that fuel had been permanently removed from the reactor vessel. The issuance of this certification fundamentally changed the licensing basis of Millstone Unit 1 in that the NRC issued 10 CFR Part 50 license no longer authorizes operation of the reactor or emplacement or retention of fuel in the reactor vessel.

Safety related structures, systems, and components (SSCs) and SSCs important to safety remaining at Millstone Unit 1 are associated with the spent fuel pool island where the Millstone Unit 1 spent fuel is stored. Other than non-essential systems supporting the balance of plant facilities, the remaining plant equipment has been de-energized, disabled and abandoned in place or removed from the unit and can no longer be used for power generation.

2.0 Request/Action

By letter dated June 8, 2006, Dominion is requesting an exemption from the record retention requirements of: 10 CFR 50.59(d)(3) which requires certain records be maintained until termination of a license issued pursuant to Part 50; 10 CFR 50.71(c) which requires records required by the regulations, by license condition, or by technical specifications must be retained for the period specified by the appropriate regulation, license condition, or technical specification and if a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility license; 10 CFR 50 Appendix A Criterion 1 which requires certain records be retained throughout the life of the unit; and 10 CFR 50 Appendix B Criterion XVII which requires certain records be retained consistent with regulatory requirements for a duration established by the licensee.

Dominion proposes to eliminate record retention requirements for Millstone Unit 1 SSCs associated with safe power generation that have been de-energized, disabled, and abandoned in place or removed from the unit. Dominion is not requesting an exemption associated with record keeping requirements for storage of spent fuel in the Millstone Unit 1 spent fuel pool or for systems required to support the safe storage of spent fuel.

3.0 Discussion

The records that the licensee proposes to eliminate are for SSCs associated with safe power generation that have been de-energized, disabled, and abandoned in place or removed from the unit. Examples of such records include procedures, strip charts, other recorder charts, and radiographs. Disposal of these records will not adversely impact the ability to meet other NRC regulatory requirements for the retention of records [*e.g.*, 10 CFR 50.54(a), (p), (q), and (bb); 10 CFR 50.59(d); 10 CFR 50.75(g); etc.]. These regulatory requirements ensure that records from operation and decommissioning activities are maintained for safe decommissioning, spent nuclear fuel storage, completion and verification of final site survey, and license termination.

Specific Exemption Is Authorized by Law

10 CFR 50.71(d)(2) allows for the granting of specific exemptions to the record retention requirements specified in the regulations.

NRC regulation 10 CFR 50.71(d)(2) states, in part:

* * * the retention period specified in the regulations in this part for such records shall apply unless the Commission, pursuant to § 50.12 of this part, has granted a specific exemption from the record retention requirements specified in the regulations in this part.

Based on 10 CFR 50.71(d)(2), if the specific exemption requirements of 10 CFR 50.12 are satisfied, the exemption from the record keeping requirements of 10 CFR 50.59(d)(3); 10 CFR 50.71(c); 10 CFR Part 50, Appendix A, Criterion 1; and 10 CFR Part 50, Appendix B, Criterion XVII, is authorized by law.

Specific Exemption Will Not Present an Undue Risk to the Public Health and Safety

The partial exemption from the record keeping requirements of 10 CFR 50.59(d)(3); 10 CFR 50.71(c); 10 CFR Part 50, Appendix A, Criterion 1; and 10 CFR Part 50, Appendix B, Criterion XVII, for the records described above is administrative in nature and will have no impact on any remaining decommissioning activities or on radiological effluents. The exemption will merely advance the schedule for destruction of the specified records. Considering the content of these records, the elimination of these records on an advanced timetable will have no reasonable possibility of presenting any undue risk to the public health and safety.

Specific Exemption Consistent With the Common Defense and Security

The partial exemption from the record keeping requirements of 10 CFR 50.59(d)(3); 10 CFR 50.71(c); 10 CFR Part 50, Appendix A, Criterion 1; and 10 CFR Part 50, Appendix B, Criterion XVII, for the types of records described above is consistent with the common defense and security as defined in the Atomic Energy Act (42 U.S.C. 2014, Definitions) and in 10 CFR 50.2 ''Definitions.''

The partial exemption requested does not impact remaining decommissioning activities and does not involve information or activities that could potentially impact the common defense and security of the United States.

Rather, the exemption requested is administrative in nature and would merely advance the current schedule for destruction of the specified records. Considering the content of these records, the elimination of these records on an advanced timetable has no reasonable possibility of having any impact on national defense or security. Therefore, the partial exemption from the recordkeeping requirements of 10 CFR 50.59(d)(3); 10 CFR 50.71(c); 10 CFR Part 50, Appendix A, Criterion 1; and 10 CFR Part 50, Appendix B, Criterion XVII, for the types of records described above is consistent with the common defense and security.

Special Circumstances

NRC regulation 10 CFR 50.12(a)(2) states, in part:

''(2) The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever—(ii) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule.''

Given the status of Millstone Unit 1 decommissioning, special circumstances exist which will allow the NRC to consider granting the partial exemption requested. Consistent with 10 CFR 50.12(a)(2)(ii), applying the recordkeeping requirements of 10 CFR 50.59(d)(3); 10 CFR 50.71(c); 10 CFR Part 50, Appendix A, Criterion 1; and 10 CFR Part 50, Appendix B, Criterion XVII, to the continued storage of the records described previously is not necessary to achieve the underlying purpose of the rules.

The NRC's Statements of Consideration for final rulemaking, effective July 26, 1988 (53 FR 19240 dated May 27, 1988) ''Retention Periods for Records,'' provides the underlying purpose of the regulatory record keeping requirements. In response to several public comments leading up to this final rulemaking, the NRC supported the need for record retention requirements by stating that records: ''* * * must be retained * * * so that they will be available for examination by the Commission in any analysis following an accident, incident, or other problem involving public health and safety * * * [and] * * * for NRC to ensure compliance with the safety and health aspects of the nuclear environment and for the NRC to accomplish its mission to protect the public health and safety.''

The underlying purpose of the subject record keeping regulations is to ensure that the NRC staff has access to information that, in the event of an accident, incident, or condition that could impact public health and safety, would assist in the recovery from such an event and could also help prevent future events or conditions that could adversely impact public health and safety.

Given the current status of Millstone Unit 1 decommissioning, the records that would be subject to early destruction would not provide the NRC with information that would be pertinent or useful. The types of records that would fall under the exemption would include radiographs, vendor equipment technical manuals, and recorder charts associated with operating nuclear power plant SSCs that had been classified as important to safety during power operations, but that are no longer classified as important to safety, are no longer operational, or have been removed from the Millstone Unit 1 site for disposal.

As indicated in the excerpts cited above under the heading ''NRC Regulatory record keeping Requirements to be Exempted,'' the regulations include wording that states that records of activities involving the operation, design, fabrication, erection, and testing of SSCs that are classified as quality-related and/or important to safety should be retained ''until the Commission terminates the facility license'' or ''throughout the life of the unit.''

As stated in 10 CFR Part 50, Appendix A:

''A nuclear power unit means a nuclear power reactor and associated equipment necessary for electric power generation and includes those structures, systems, and components required to provide reasonable assurance the facility can be operated without undue risk to the health and safety of the public.''

With the majority of the plant systems formerly supporting power operations at Millstone Unit 1, having been de-energized, disabled, abandoned in place or removed from the site, the Millstone Unit 1 site no longer houses a nuclear power reactor and associated equipment necessary for electric power generation. Thus, with respect to the underlying intent of the record keeping rules cited above, Millstone Unit 1 is not able to generate electricity and is no longer a nuclear power unit as defined in 10 CFR Part 50, Appendix A.

All of the Millstone Unit 1 spent nuclear fuel has been transferred to the spent fuel pool and the required support systems related to safely storing the spent nuclear fuel have been isolated to a spent fuel pool island. The records related to this activity are still required by the regulations and the licensee specified that they were ''* * * not requesting an exemption associated with record keeping requirements for storage of spent fuel in the [Millstone Unit 1] spent fuel pool or for systems required to support the safe storage of spent fuel.''

Based on the above, it is clear that application of the subject record keeping requirements to the Millstone

Unit 1 records specified above is not required to achieve the underlying purpose of the rule. Thus, special circumstances are present which the NRC may consider, pursuant to 10 CFR 50.12(a)(2)(ii), to grant the requested exemption.

4.0 Conclusion

The staff has determined that 10 CFR 50.71(d)(2) allows the Commission to grant specific exemptions to the record retention requirements specified in regulations provided the requirements of 10 CFR 50.12 are satisfied.

The staff has determined that the requested partial exemption from the record keeping requirements of 10 CFR 50.59(d)(3); 10 CFR 50.71(c); 10 CFR Part 50, Appendix A, Criterion 1; and 10 CFR Part 50, Appendix B, Criterion XVII, will not present an undue risk to the public health and safety. The destruction of the identified records will not impact remaining decommissioning activities; plant operations, configuration, and/or radiological effluents; operational and/or installed SSCs that are quality-related or important to safety; or nuclear security.

The staff has determined that the destruction of the identified records is administrative in nature and does not involve information or activities that could potentially impact the common defense and security of the United States.

The staff has determined that the purpose for the record keeping regulations is to ensure that the NRC Staff has access to information that, in the event of any accident, incident, or condition that could impact public health and safety, would assist in the protection of public health and safety during recovery from the given accident, incident, or condition, and also could help prevent future events or conditions adversely impacting public health and safety.

Further, since most of the Millstone Unit 1 SSCs that were safety-related or important-to-safety have been de-energized, disabled, abandoned in place or removed form the site, the staff agrees that the records identified in the partial exemption would not provide the NRC with useful information during an investigation of an accident or incident.

Therefore, the Commission grants Dominion the requested partial exemption to the record keeping requirements of 10 CFR 50.59(d)(3); 10 CFR 50.71(c); 10 CFR Part 50, Appendix A, Criterion 1; and 10 CFR Part 50, Appendix B, Criterion XVII, as described in the June 8, 2006, letter.

Pursuant to 10 CFR Part 51.31, the Commission has determined that the granting of this exemption will not have a significant effect on the quality of the human environment as documented in **Federal Register** notice Vol. 72, No. 4048, dated January 29, 2007.

This exemption is effective upon issuance.

Dated at Rockville, Maryland this 30th day of January, 2007.

For the Nuclear Regulatory Commission.

Keith I. McConnell,

Deputy Director, Decommissioning and Uranium Recovery, Licensing Directorate, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Program.

[FR Doc. E7–2036 Filed 2–6–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[DOCKET NO. 030–12998]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Byproduct Materials License No. 37–07438–15, for the Unrestricted Release of the Philadelphia Health & Education Corporation's Facility in Philadelphia, PA

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT: Dennis Lawyer, Health Physicist, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region 1, 475 Allendale Road, King of Prussia, Pennsylvania; telephone (610)-337–5366; fax number (610)-337–5393; or by e-mail: *drl1@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Byproduct Materials License No. 37–07438–15. This license is held by Philadelphia Health & Education Corporation, d/b/a/ Drexel University College of Medicine (the Licensee), for the area leased to the Licensee at the Woman's Medical Hospital, located at 3300 Henry Avenue in Philadelphia, Pennsylvania (the Facility). Issuance of the amendment would authorize release of the Facility for unrestricted use. The Licensee requested this action in a letter dated August 7, 2006. The NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), Part 51 (10 CFR Part 51). Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will be issued to the Licensee following the publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's August 7, 2006, license amendment request, resulting in release of the Facility for unrestricted use. License No. 37–07438–15 was issued on July 17, 1977, pursuant to 10 CFR Part 30 and has been amended periodically since that time. This license authorized the Licensee to use unsealed byproduct material for purposes of conducting research and development activities on laboratory bench tops and in hoods.

The Facility is a 600,000 square foot building complex and consists of office space and laboratories. The Facility is located in a mixed residential/commercial area. Within the Facility, use of licensed materials was confined to laboratories leased to the Licensee totaling 30,000 square foot.

On July 7, 2006, the Licensee ceased licensed activities and initiated a survey and decontamination of the Facility. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with their NRC-approved, operating radiation safety procedures, were required. The Licensee was not required to submit a decommissioning plan to the NRC because worker cleanup activities and procedures are consistent with those approved for routine operations. The Licensee conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the criteria in Subpart E of 10 CFR Part 20 for unrestricted release.

Need for the Proposed Action

The Licensee has ceased conducting licensed activities at the Facility, and seeks release of the Facility for unrestricted use.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use

of hydrogen-3, carbon-14, and calcium-45, which have half-lives greater than 120 days. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by these radionuclides.

The Licensee conducted a final status survey on July 28, 2006. This survey covered areas of material use within the Facility. The final status survey report was enclosed with the Licensee's amendment request dated August 7, 2006. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in NUREG–1757, ''Consolidated NMSS Decommissioning Guidance,'' Volume 2. The Licensee used the radionuclide-specific derived concentration guideline levels (DCGLs), developed there by the NRC, which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials, and in soils, that will satisfy the NRC requirements in Subpart E of 10 CFR Part 20 for unrestricted release. The Licensee's final status survey results were below these DCGLs and are in compliance with the As Low As Reasonably Achievable (ALARA) requirement of 10 CFR 20.1402. The NRC thus finds that the Licensee's final status survey results are acceptable. Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'' (NUREG–1496) Volumes 1–3 (ML042310492, ML042320379, and ML042330385). The staff finds there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed the docket file records and the final status survey report to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified. The NRC has identified no other radiological or non-radiological activities in the area that could result in cumulative environmental impacts.

The NRC staff finds that the proposed release of the Facility for unrestricted use is in compliance with 10 CFR 20.1402. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Due to the largely administrative nature of the proposed action, its environmental impacts are small. Therefore, the only alternative the staff considered is the no-action alternative, under which the staff would leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d), requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities cease. The NRC's analysis of the Licensee's final status survey data confirmed that the Facility meets the requirements of 10 CFR 20.1402 for unrestricted release. Additionally, denying the amendment request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the Commonwealth of Pennsylvania's Department of Environmental Protection, Bureau of Radiation Protection, for review on January 8, 2007. On January 19, 2007, the Commonwealth responded by e-mail. The Commonwealth agreed with the conclusions of the EA and otherwise had no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. NUREG–1757, ''Consolidated NMSS Decommissioning Guidance'';
2. Title 10 Code of Federal Regulations, Part 20, Subpart E, ''Radiological Criteria for License Termination'';
3. Title 10, Code of Federal Regulations, Part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions'';
4. NUREG–1496, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'';
5. Philadelphia Health & Education Corporation, d/b/a Drexel University College of Medicine, Amendment Request letter dated August 7, 2006 [ML062280226]
6. Philadelphia Health & Education Corporation, d/b/a Drexel University College of Medicine, Additional Information Letter dated November 21, 2006 [ML063520493]

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*. These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Region 1, 475 Allendale Road, King of Prussia, PA this 30th day of January, 2007.

For the Nuclear Regulatory Commission.

James P. Dwyer,

Chief, Commercial and R&D Branch, Division of Nuclear Materials Safety, Region 1.

[FR Doc. E7–2041 Filed 2–6–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Federal Register Notice

AGENCY HOLDING THE MEETINGS: Nuclear Regulatory Commission.

DATE: Weeks of February 5, 12, 19, 26, March 5, 12, 2007.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of February 5, 2007

There are no meetings scheduled for the Week of February 5, 2007.

Week of February 12, 2007—Tentative

Thursday, February 15, 2007

9:25 a.m.—Affirmation Session (Public Meeting) (Tentative) a. System Energy Resources, Inc. (Early Site Permit for Grand Gulf ESP) (Tentative).

9:30 a.m.—Briefing on Office of Chief Financial Officer (OCFO) Programs, Performance, and Plans (Public Meeting) (Contact: Edward New, 301–415–5646).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of February 19, 2007—Tentative

There are no meetings scheduled for the Week of February 19, 2007.

Week of February 26, 2007—Tentative

Wednesday, February 28, 2007

9:30 a.m.—Periodic Briefing on New Reactor Issues (Public Meeting) (Contact: Donna Williams, 301–415–1322).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of March 5, 2007—Tentative

Monday, March 5, 2007

1 p.m.—Meeting with Department of Energy on New Reactor Issues (Public Meeting).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Tuesday, March 6, 2007

1 p.m.—Discussion of Management Issues (Closed—Ex. 2) (Tentative).

Wednesday, March 7, 2007

9:30 a.m.—Briefing on Office of Nuclear Security and Incident Response (NSIR) Programs, Performance, and Plans (Public Meeting) (Contact: Miriam Cohen, 301–415–0260).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

1 p.m.—Discussion of Security Issues (Closed—Ex. 1 and 3).

Thursday, March 8, 2007

10 a.m.—Briefing on Office of Nuclear Materials Safety and Safeguards (NMSS) Programs, Performance, and Plans (Public Meeting) (Contact: Gene Peters, 301–415–5248).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

1 p.m.—Briefing on Office of Nuclear Reactor Regulation (NRR) Programs, Performance, and Plans (Public Meeting) (Contact: Reginald Mitchell, 301–415–1275).

This meeting will be webcast live at the Web address—*http://www.nrc.gov.*

Week of March 12, 2007—Tentative

There are no meetings scheduled for the Week of March 12, 2007.

* * * * *

* The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292. Contact person for more information: Michelle Schroll, (301) 415–1662.

* * * * *

Additional Information: Affirmation of 1. AmerGen Energy Company, LLC (License Renewal for Oyster Creek Nuclear Generating Station) Docket No. 50–0219, Remaining Legal challenges to LBP–06–07 (Tentative), 2. Nuclear Management Co., LLC (Palisades Nuclear Plant, license renewal application); response to ''Notice'' relating to San Louis Obispo Mothers for Peace (Tentative), and 3. System Energy Resources, Inc. (Early Site Permit for Grand Gulf ESP Site); response to NEPA/terrorism issue (Tentative) previously scheduled on Monday, January 29, 2007, at 10:50 a.m. was postponed and will be rescheduled.

By a vote of 5–0 on February 1, 2007, the Commission determined pursuant to U.S.C. 552b(e) and § 9.107(a) of the Commission's rules that ''Affirmation of David Geisen, 'Order (Denying Government's Request to Stay Proceeding)' (Jan. 12, 2007)'' be held February 1, 2007, and on less than one week's notice to the public.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/what-we-do/policy-making/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.* braille, large print), please notify the NRC's Disability Program Coordinator, Deborah Chan, at 301–415–7041, TDD: 301–415–2100, or by e-mail at *DLC@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to *dkw@nrc.gov.*

Dated: February 1, 2007.

R. Michelle Schroll,

Office of the Secretary.

[FR Doc. 07–551 Filed 2–5–07; 10:52 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27693; 812–13343]

PowerShares Exchange-Traded Fund Trust, et al.; Notice of Application January 31, 2007.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for exemption from sections 12(d)(1)(A) and (B) of the Act and under sections 6(c) and 17(b) of the Act for an exemption from section 17(a) of the Act.

SUMMARY OF THE APPLICATION: The order would permit certain registered management investment companies and unit investment trusts to acquire shares of other registered open-end

management investment companies and unit investment trusts that operate as exchange-traded funds and that are not part of the same group of investment companies. The order would also amend a condition in a prior order.

APPLICANTS: PowerShares Exchange-Traded Fund Trust (the ''Trust''), PowerShares Capital Management LLC (the ''Adviser'') and AIM Distributors, Inc. (the ''Distributor'').

FILING DATES: The application was filed on November 15, 2006 and amended on January 30, 2007.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 26, 2007, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC, 20549–1090. Applicants: PowerShares Capital Management LLC and PowerShares Exchange-Traded Fund Trust, 301 W. Roosevelt Rd., Wheaton, IL 60187; AIM Distributors, Inc., 11 Greenway Plaza, Suite 100, Houston, TX 77046–1173.

FOR FURTHER INFORMATION CONTACT: Marilyn Mann, Senior Counsel, at (202) 551–6813, and Mary Kay Frech, Branch Chief, at (202) 551–6821 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 100 F Street, NE., Washington, DC 20549–0102 (tel. (202) 551–5850).

Applicants' Representations

1. The Trust is an open-end management investment company registered under the Act and organized as a Massachusetts business trust. The Trust currently offers 70 series (the ''Current Index Funds'') in reliance on a prior exemptive order (the ''Prior Order'').[1] The Trust intends to establish additional series in the future in reliance on the Prior Order (''Future Index Funds''). The Current Index Funds and Future Index Funds are together referred to as the ''Index Funds.'' [2] The Adviser is a Delaware limited liability company that is registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act'') and provides advisory services to each of the Index Funds. The Distributor is a Delaware corporation that is registered as a broker-dealer under the Securities Exchange Act of 1934. Each of the Adviser and the Distributor is an indirect wholly-owned subsidiary of AMVESCAP PLC, a public limited company organized in the United Kingdom.

2. Applicants request an exemption to permit: (i) management investment companies or series thereof (''Purchasing Management Companies'') and unit investment trusts or series thereof (''Purchasing Trusts,'' and together with Purchasing Management Companies, ''Purchasing Funds'') registered under the Act that are not sponsored or advised by the Adviser or an entity controlling, controlled by or under common control with the Adviser and not part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the Act, as the Index Funds, to acquire shares (''Fund Shares'') of (a) an Index Fund and (b) each open-end management investment company or series thereof or unit investment trust or series thereof registered under the Act that operates as an exchange-traded fund (an ''ETF''), is currently or subsequently part of the same ''group of investment companies'' as each Index Fund and is advised or sponsored by the Adviser or an entity controlling, controlled by or under common control with the Adviser (such open-end ETFs, including the Index Funds, are referred to herein as ''Open-end Funds'' and such unit investment trust ETFs are referred to herein as ''UIT Funds'') (collectively, the ''Investee Funds''), beyond the limitations in section 12(d)(1)(A); and (ii) Open-end Funds, the Distributor and any broker or dealer to sell shares to the Purchasing Funds beyond the limits of section 12(d)(1)(B). Applicants also seek an exemption from section 17(a) of the Act to permit an Investee Fund to sell Fund Shares to, and redeem Fund Shares from, and engage in certain in-kind transactions with, a Purchasing Fund of which the Investee Fund is an affiliated person or an affiliated person of an affiliated person.

3. Each Purchasing Management Company will be advised by an investment adviser within the meaning of section 2(a)(20)(A) of the Act (''Purchasing Fund Adviser'') and may be sub-advised by investment adviser(s) within the meaning of section 2(a)(20)(B) of the Act (''Purchasing Fund Sub-Adviser''). Any investment adviser to a Purchasing Management Company will be registered as an investment adviser under the Advisers Act. A sponsor to a Purchasing Trust is a ''Purchasing Trust Sponsor.''

4. Applicants state that the Investee Funds will offer the Purchasing Funds an easy way to gain instant exposure to a variety of markets, segments, sectors, geographic regions and groups of industries through a single, relatively low cost transaction.

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the Act prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the Act prohibits a registered open-end investment company, its principal underwriter, or any other broker or dealer from selling its shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

2. Applicants assert that the proposed transactions will not lead to any of the abuses that section 12(d)(1) was designed to prevent. Applicants submit

[1] PowerShares Exchange-Traded Fund Trust, Investment Company Act Rel. Nos. 25961 (Mar. 4, 2003) (notice) and 25985 (Mar. 28, 2003) (order).

[2] All entities that currently intend to rely on the requested order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application. A Purchasing Fund, as defined below, may rely on the requested order only to invest in the Investee Funds, as defined below, and not in any other registered investment company.

that the proposed conditions to the requested relief address the concerns underlying the limits in section 12(d)(1), which include concerns about undue influence, excessive layering of fees and overly complex structures.

3. Applicants state that the proposed arrangement will not result in undue influence by a Purchasing Fund or its affiliates over an Investee Fund. To limit the control that a Purchasing Fund may have over an Investee Fund, applicants propose a condition prohibiting the Purchasing Fund Adviser or Purchasing Trust Sponsor; any person controlling, controlled by, or under common with the Purchasing Fund Adviser or Purchasing Trust Sponsor; and any investment company or issuer that would be an investment company but for sections 3(c)(1) or 3(c)(7) of the Act that is advised or sponsored by the Purchasing Fund Adviser or advised or sponsored by the Purchasing Trust Sponsor, or any person controlling, controlled by, or under common control with the Purchasing Fund Adviser or Purchasing Trust Sponsor (''Purchasing Fund's Advisory Group'') from controlling (individually or in the aggregate) an Investee Fund within the meaning of section 2(a)(9) of the Act. The same prohibition would apply to any Purchasing Fund Subadviser; any person controlling, controlled by, or under common control with the Purchasing Fund Subadviser; and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the Act (or portion of such investment company or issuer) advised or sponsored by the Purchasing Fund Subadviser or any person controlling, controlled by, or under common control with the Purchasing Fund Subadviser (''Purchasing Fund's Sub-Advisory Group'').

4. To limit further the potential for undue influence by a Purchasing Fund over an Investee Fund, applicants propose conditions 2 through 7, stated below, to preclude a Purchasing Fund and certain of its affiliates from taking advantage of an Investee Fund and certain Investee Fund affiliates with respect to transactions between the entities and to ensure the transactions will be on an arm's length basis.

5. Applicants do not believe that the proposed arrangement will involve excessive layering of fees. The board of directors or trustees of each Purchasing Management Company, including a majority of the disinterested directors or trustees, before approving any advisory contract under section 15 of the Act, will be required to determine that the advisory fees charged to the Purchasing Management Company are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Open-end Fund in which the Purchasing Management Company may invest. In addition, the Purchasing Fund Adviser, trustee or Purchasing Trust Sponsor of a Purchasing Fund, as applicable, will waive fees otherwise payable to it by the Purchasing Fund in an amount at least equal to any compensation received from an Investee Fund by the Purchasing Fund Adviser, trustee or Purchasing Trust Sponsor, or an affiliated person of the Purchasing Fund Adviser, trustee or Purchasing Trust Sponsor (other than any advisory fees), in connection with the investment by the Purchasing Fund in the Investee Funds. Applicants also state that any sales charges and/or service fees charged with respect to shares of a Purchasing Fund will not exceed the limits applicable to a fund of funds set forth in Conduct Rule 2830 of the NASD (''Rule 2830'').

6. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that an Investee Fund will be prohibited from acquiring securities of any investment company, or of any company relying on section 3(c)(1) or 3(c)(7) of the Act, in excess of the limits contained in section 12(d)(1)(A) of the Act.

7. To ensure that Purchasing Funds are aware of the terms and conditions of the requested order, the Purchasing Funds must enter into an agreement with the respective Investee Funds (''Purchasing Fund Agreement''). The Purchasing Fund Agreement will include an acknowledgement from the Purchasing Fund that it may rely on the order only to invest in the Investee Funds and not in any other investment company. The Purchasing Fund Agreement will further require any Purchasing Fund that exceeds the 5% or 10% limitations in section 12(d)(1)(A)(ii) and (iii) to disclose in its prospectus that it may invest in ETFs and disclose, in ''plain English,'' in its prospectus the unique characteristics of the Purchasing Funds investing in investment companies, including but not limited to the expense structure and any additional expenses of investing in investment companies. Each Purchasing Fund will comply with the disclosure requirements concerning the aggregate costs of investing in the Investee Funds set forth in Investment Company Act Release No. 27399.

B. Section 17(a)

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company or an affiliated person of such person (''second tier affiliate''), from selling any security to or purchasing any security from the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person, and any person directly or indirectly controlling, controlled by, or under common control with, the other person. The Investee Funds may be deemed to be controlled by the Adviser or an entity controlling, controlled by, or under common control with the Adviser and hence affiliated persons of each other. In addition, the Investee Funds may be deemed to be under common control with any other registered investment company (or series thereof) advised by the Adviser or an entity controlling, controlled by or under common control with the Adviser (an ''Affiliated Fund'').[3]

2. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if evidence establishes that (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any person or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicants request an exemption under sections 6(c) and 17(b) of the Act from section 17(a) of the Act in order to permit each Investee Fund to sell Fund Shares to and redeem Fund Shares from, and engage in the in-kind transactions that would accompany such sales and redemptions with, any Purchasing Fund

[3] Applicants acknowledge that the receipt of any compensation by (a) an affiliated person or second tier affiliate of a Purchasing Fund for the purchase by the Purchasing Fund of Fund Shares of an Investee Fund or (b) an affiliated person or second tier affiliate of an Investee Fund for the sale by the Investee Fund of Fund Shares to a Purchasing Fund, is subject to section 17(e) of the Act. The Purchasing Fund Agreement also will include this acknowledgment.

of which it is an affiliated person or second tier affiliate because of one or more of the following: (1) The Purchasing Fund holds 5% or more of the Fund Shares of the Trust or one or more Investee Funds; (2) a Purchasing Fund described in (1) is an affiliated person of the Purchasing Fund; or (3) the Purchasing Fund holds 5% or more of the shares of one or more Affiliated Funds.[4]

4. Applicants submit that the proposed arrangement satisfies the standards for relief under sections 17(b) and 6(c) of the Act. Applicants submit that the proposed transactions are appropriate in the public interest, consistent with the protection of investors, and do not involve overreaching. Applicants note that the consideration paid for the purchase or received for the redemption of Fund Shares directly from an Investee Fund by a Purchasing Fund (or any other investor) will be based on the net asset value of the Fund Shares. In addition, the securities received or transferred by the Investee Fund in connection with the purchase or redemption of Fund Shares will be valued in the same manner as the Investee Fund's portfolio securities and thus the transactions will not be detrimental to the Purchasing Fund. Applicants also state that the proposed transactions will be consistent with the policies of each Purchasing Fund and Investee Fund and with the general purposes of the Act. Applicants state that the Purchasing Fund Agreement will require a Purchasing Fund to represent that its ownership of Fund Shares issued by an Investee Fund is consistent with the investment policies set forth in the Purchasing Fund's registration statement.

C. Prior Order

Applicants also seek to amend a condition to the Prior Order so that the condition is consistent with the relief requested from section 12(d)(1). Condition 2 to the Prior Order currently provides that each Investee Fund prospectus and ''Product Description'' [5] will clearly disclose that, for purposes of the Act, Fund Shares are issued by the Investee Fund and that the acquisition of Fund Shares by investment companies is subject to the restrictions of section 12(d)(1) of the Act. In light of the requested order to permit Purchasing Funds to invest in Investee Funds in excess of the limits of section 12(d)(1), applicants wish to replace this condition with condition 13, as stated below. Under the new condition, each Investee Fund prospectus and Product Description will disclose that Purchasing Funds may purchase shares of the Investee Funds in excess of the limits of section 12(d)(1) to the extent that they comply with the terms and conditions of the requested order granting relief from section 12(d)(1).[6]

Applicants' Conditions

Applicants agree that the order of the Commission granting the requested relief will be subject to the following conditions:

1. The members of a Purchasing Fund's Advisory Group will not control (individually or in the aggregate) an Investee Fund within the meaning of section 2(a)(9) of the Act. The members of a Purchasing Fund's Sub-Advisory Group will not control (individually or in the aggregate) an Investee Fund within the meaning of section 2(a)(9) of the Act. If, as a result of a decrease in the outstanding Fund Shares of an Investee Fund, the Purchasing Fund's Advisory Group or the Purchasing Fund's Sub-Advisory Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding Fund Shares of an Investee Fund, it will vote its Fund Shares in the same proportion as the vote of all other holders of the Investee Fund's Fund Shares. This condition does not apply to the Purchasing Fund Sub-Advisory Group with respect to an Investee Fund for which the Purchasing Fund Sub-Adviser or a person controlling, controlled by, or under common control with the Purchasing Fund Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the Act (in the case of an Open-end Fund) or as the sponsor (in the case of a UIT Fund).

2. No Purchasing Fund or Purchasing Fund Affiliate will cause any existing or potential investment by the Purchasing Fund in an Investee Fund to influence the terms of any services or transactions between the Purchasing Fund or a Purchasing Fund Affiliate and the Investee Fund or a Fund Affiliate. A ''Purchasing Fund Affiliate'' means a Purchasing Fund Adviser, Purchasing Fund Sub-Adviser, Purchasing Trust Sponsor, a promoter, or a principal underwriter of a Purchasing Fund and any person controlling, controlled by, or under common control with any of those entities. A ''Fund Affiliate'' means an investment adviser(s), promoter, sponsor or principal underwriter of an Investee Fund and any person controlling, controlled by or under common control with any of these entities.

3. The board of directors or trustees of a Purchasing Management Company, including a majority of the disinterested directors or trustees, will adopt procedures reasonably designed to ensure that the Purchasing Fund Adviser and any Purchasing Fund Sub-Adviser are conducting the investment program of the Purchasing Management Company without taking into account any consideration received by the Purchasing Management Company or a Purchasing Fund Affiliate from an Investee Fund or Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Purchasing Fund in the securities of an Open-end Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, the board of directors or trustees of an Open-end Fund (''Board''), including a majority of the disinterested Board members, will determine that any consideration paid by the Open-end Fund to the Purchasing Fund or a Purchasing Fund Affiliate in connection with any services or transactions (i) is fair and reasonable in relation to the nature and quality of the services and benefits received by the Open-end Fund; (ii) is within the range of consideration that the Open-end Fund would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (iii) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Open-end Fund and its investment adviser(s) or any person controlling, controlled by, or under common control with such investment adviser(s).

5. No Purchasing Fund or Purchasing Fund Affiliate (except to the extent it is acting in its capacity as an investment

[4] Although applicants believe that most Purchasing Funds will purchase and sell Fund Shares in the secondary market, a Purchasing Fund might seek to transact in Fund Shares directly with an Investee Fund. When transacting directly with an Investee Fund, a Purchasing Fund will generally be required to deposit securities into, or receive securities from, the Investee Fund in connection with the purchase and redemption of Fund Shares. With respect to these in-kind transactions, applicants are requesting relief for Investee Funds that are affiliated persons or second tier affiliates of a Purchasing Fund solely by virtue of one or more of the reasons described above.

[5] A ''Product Description'' is a short document that describes, in plain English, the Fund Shares and the Investee Funds. The Product Description is delivered by broker-dealers to secondary market purchasers of Fund Shares.

[6] The requested order would also amend the Prior Order to reflect that the Trust has replaced the prior distributor, ALPS Distributors, Inc. (''ALPS''), with the Distributor. The application for the Prior Order stated that ALPS was not an affiliated person of the Adviser. As described above, the Distributor is an affiliated person of the Adviser. The Distributor agrees to comply with all terms and conditions of the Prior Order, as amended.

adviser to an Open-end Fund or sponsor to a UIT Fund) will cause an Investee Fund to purchase a security in an offering of securities during the existence of an underwriting or selling syndicate of which a principal underwriter is an officer, director, member of an advisory board, Purchasing Fund Adviser, Purchasing Fund Sub-Adviser, employee, or Purchasing Trust Sponsor of the Purchasing Fund, or a person of which any such officer, director, member of an advisory board, Purchasing Fund Adviser, Purchasing Fund Sub-Adviser, employee, or Purchasing Trust Sponsor is an affiliated person (each, an ''Underwriting Affiliate,'' except any person whose relationship to the Investee Fund is covered by section 10(f) of the Act is not an Underwriting Affiliate). An offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate is an ''Affiliated Underwriting.''

6. The Board of an Open-end Fund, including a majority of the disinterested Board members, will adopt procedures reasonably designed to monitor any purchases of securities by the Open-end Fund in an Affiliated Underwriting, once an investment by a Purchasing Fund in the securities of the Open-end Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, including any purchases made directly from an Underwriting Affiliate. The Board will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Purchasing Fund in the Open-end Fund. The Board will consider, among other things: (i) whether the purchases were consistent with the investment objectives and policies of the Open-end Fund; (ii) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (iii) whether the amount of securities purchased by the Open-end Fund in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board will take any appropriate actions based on its review, including the institution of procedures designed to assure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders.

7. The Open-end Fund will maintain and preserve permanently in an easily accessible place a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in Affiliated Underwritings once an investment by a Purchasing Fund in the shares of the Open-end Fund exceeds the limit of section 12(d)(1)(A)(i) of the Act, setting forth from whom the securities were acquired, the identity of the underwriting syndicate's members, the terms of the purchase, and the information or materials upon which the Board's determinations were made.

8. Before investing in an Investee Fund in excess of the limits of section 12(d)(1)(A), the Purchasing Fund and the Investee Fund will execute a Purchasing Fund Agreement stating, without limitation, that their boards of directors or trustees and their investment advisers or sponsors and trustees, as applicable, understand the terms and conditions of the order, and agree to fulfill their responsibilities under the order. At the time of its investment in shares of an Open-end Fund in excess of the limit of section 12(d)(1)(A)(i), a Purchasing Fund will notify the Open-end Fund of the investment. At such time, the Purchasing Fund will also transmit to the Open-end Fund a list of the names of each Purchasing Fund Affiliate and Underwriting Affiliate. The Purchasing Fund will notify the Open-end Fund of any changes to the list as soon as reasonably practicable after a change occurs. The Investee Fund and the Purchasing Fund will maintain and preserve a copy of the order, the Purchasing Fund Agreement and, in the case of an Open-end Fund, the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Before approving any advisory contract under section 15 of the Act, the board of directors or trustees of each Purchasing Management Company, including a majority of the disinterested directors or trustees, will find that the advisory fees charged under such advisory contract are based on services provided that will be in addition to, rather than duplicative of, the services provided under the advisory contract(s) of any Open-end Fund in which the Purchasing Management Company may invest. These findings and their basis will be recorded fully in the minute books of the appropriate Purchasing Management Company.

10. A Purchasing Fund Adviser, trustee or Purchasing Trust Sponsor, as applicable, will waive fees otherwise payable to it by a Purchasing Fund, in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Open-end Fund under rule 12b-1 under the Act) received from an Investee Fund by the Purchasing Fund Adviser, trustee or Purchasing Trust Sponsor, or an affiliated person of the Purchasing Fund Adviser, trustee or Purchasing Trust Sponsor, other than any advisory fees paid to the Purchasing Fund Adviser, trustee or Purchasing Trust Sponsor or its affiliated person by an Open-end Fund, in connection with the investment by the Purchasing Fund in an Investee Fund. Any Purchasing Fund Sub-Adviser will waive fees otherwise payable to the Purchasing Fund Sub-Adviser, directly or indirectly, by the Purchasing Management Company in an amount at least equal to any compensation received from an Investee Fund by the Purchasing Fund Sub-Adviser, or an affiliated person of the Purchasing Fund Sub-Adviser, other than any advisory fees paid to the Purchasing Fund Sub-Adviser or its affiliated person by the Open-end Fund, in connection with the investment by the Purchasing Management Company in an Investee Fund made at the direction of the Purchasing Fund Sub-Adviser. In the event that the Purchasing Fund Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Purchasing Management Company.

11. Any sales charges and/or service fees charged with respect to shares of a Purchasing Fund will not exceed the limits applicable to a fund of funds as set forth in Rule 2830.

12. No Investee Fund will acquire securities of any investment company or company relying on section 3(c)(1) or 3(c)(7) of the Act in excess of the limits contained in section 12(d)(1)(A) of the Act.

Amendment to Prior Order

Applicants agree to replace condition 2 of the Prior Order with the following condition:

13. Each Investee Fund's prospectus and Product Description will clearly disclose that, for purposes of the Act, the Fund Shares are issued by a registered investment company, and the acquisition of Fund Shares by investment companies is subject to the

restrictions of section 12(d)(1) of the Act, except as permitted by an exemptive order that permits registered investment companies to invest in an Investee Fund beyond the limits in section 12(d)(1), subject to certain terms and conditions, including that the registered investment company enter into a Purchasing Fund Agreement with the Investee Fund regarding the terms of the investment.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. 07–529 Filed 2–6–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 27694; 812–13339]

Van Eck Associates Corporation, et al.; Notice of Application

January 31, 2007.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application to amend a prior order under section 6(c) of the Investment Company Act of 1940 (''Act'') to grant exemptions from sections 2(a)(32), 5(a)(1), 22(d), 22(e), and 24(d) of the Act and rule 22c–1 under the Act, under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act, and under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and (a)(2) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to amend a prior order that permits: (a) Open-end management investment companies that include series based on certain domestic equity securities indices to issue shares (''Shares'') that can be redeemed only in large aggregations (''Creation Units''); (b) secondary market transactions in Shares to occur at negotiated prices; (c) dealers to sell Shares to purchasers in the secondary market unaccompanied by a prospectus when prospectus delivery is not required by the Securities Act of 1933 (''Securities Act''); (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; and (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares (''Prior Order'').[1] Applicants seek to amend the Prior Order in order to offer two new series (each series, an ''Additional Fund,'' and together, the ''Additional Funds'') and future series (''Future Foreign Funds,'' and together with the Additional Funds, the ''Foreign Funds'') based on foreign equity securities indices. In addition, the order would delete a condition related to future relief in the Prior Order.

APPLICANTS: Van Eck Associates Corporation (''Adviser''), Market Vectors ETF Trust (''Trust''), and Van Eck Securities Corporation (''Distributor'').

FILING DATES: The application was filed on November 1, 2006, and amended on January 25, 2007.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 26, 2007, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants, 99 Park Avenue, 8th Floor, New York, NY 10016.

FOR FURTHER INFORMATION CONTACT: Christine Y. Greenlees, Senior Counsel, at (202) 551–6879, or Mary Kay Frech, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 100 F Street NE., Washington DC 20549–0102 (tel. 202–551–5850).

Applicants' Representations

1. The Trust is an open-end management investment company registered under the Act and organized as a Delaware statutory trust. The Trust is organized as a series fund with multiple series. The Adviser, an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act''), will serve as investment adviser to each Foreign Fund. In the future, the Adviser may enter into sub-advisory agreements with other investment advisers to act as ''sub-advisers'' with respect to particular Foreign Funds. Any sub-adviser will be registered under the Advisers Act. The Distributor, a broker-dealer registered under the Securities Exchange Act of 1934 (the ''Exchange Act''), is expected to serve as the principal underwriter and distributor of each Foreign Fund's Creation Units.

2. The Trust is currently permitted to offer several series based on domestic equity securities indices in reliance on the Prior Order (''Funds''). Applicants seek to amend the Prior Order to permit the Trust to offer the two Additional Funds and Future Foreign Funds, each of which, except as described in the application, would operate in a manner identical to the Funds.

3. The Additional Funds will invest in portfolios of securities consisting predominantly of the component securities of the Ardour Global Alternative Energy Index (Extra Liquid) and the Ardour Global Alternative Energy Index (Composite) (each, an ''Underlying Index'' and together, the ''Underlying Indexes''). The Underlying Indexes are rules based, capitalization weighted, float adjusted indices that include companies principally engaged in at least one of the following five industry segments: Alternative energy resources, distributed generation, environmental technologies, energy efficiency and/or enabling technologies. Currently, the Ardour Global Alternative Energy Index (Composite) is comprised of over 200 individual stocks that are traded on a North American, European or Asian stock exchange. The Ardour Global Alternative Energy Index (Extra Liquid) is comprised of thirty stocks that are selected from the Ardour Global Alternative Energy Index (Composite) that have achieved the highest average daily trading volumes for the prior three months. No entity that creates, compiles, sponsors, or maintains an Underlying Index is or will be an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person, of the Trust, the Adviser, the Distributor, promoter, or any sub-adviser to a Foreign Fund.

4. Applicants state that all discussions contained in the application for the Prior Order are equally applicable to the Foreign Funds, except as specifically noted by applicants (as summarized in this notice). Applicants assert that the

[1] *Van Eck Associates Corporation, et al.,* Investment Company Act Release Nos. 27283 (April 7, 2006) (notice) and 27311 (May 2, 2006) (order).

Foreign Funds will operate in a manner substantially similar to the existing Funds and will comply with all of the terms, provisions and conditions of the Prior Order, as amended by the present application. Applicants believe that the requested relief continues to meet the necessary exemptive standards.

Section 22(e) of the Act

5. Applicants also seek to amend the Prior Order to add relief from section 22(e) of the Act. Section 22(e) generally prohibits a registered investment company from suspending the right of redemption or postponing the date of payment of redemption proceeds for more than seven days after the tender of a security for redemption. The principal reason for the requested exemption is that settlement of redemptions for the Foreign Funds is contingent not only on the settlement cycle of the United States market, but also on currently practicable delivery cycles in local markets for underlying foreign securities held by the Foreign Funds. Applicants state that local market delivery cycles for transferring certain foreign securities to investors redeeming Creation Units, together with local market holiday schedules, will under certain circumstances require a delivery process in excess of seven calendar days for the Foreign Funds. Applicants request relief under section 6(c) from section 22(e) in such circumstances to allow the Foreign Funds to pay redemption proceeds up to 12 calendar days after the tender of a Creation Unit for redemption. At all other times and except as disclosed in the relevant prospectus and/or statement of additional information (''SAI''), applicants expect that each Foreign Fund will be able to deliver redemption proceeds within seven days.[2] With respect to Future Foreign Funds, applicants seek the same relief from section 22(e) only to the extent that circumstances similar to those described in the application exist.

6. Applicants state that section 22(e) was designed to prevent unreasonable, undisclosed and unforeseen delays in the payment of redemption proceeds. Applicants assert that the requested relief will not lead to the problems that section 22(e) was designed to prevent. Applicants state that the SAI will disclose those local holidays (over the period of at least one year following the date of the SAI), if any, that are expected to prevent the delivery of redemption proceeds in seven calendar days, and the maximum number of days needed to deliver the proceeds for the relevant Foreign Fund.

Future Relief

7. Applicants also seek to amend the Prior Order to modify the terms under which the Trust may offer additional series in the future based on other equity securities indices (''Future Funds''). The Prior Order is currently subject to a condition that does not permit relief for Future Funds unless applicants request and receive with respect to such Future Fund, either exemptive relief from the Commission or a no-action letter from the Division of Investment Management of the Commission, or the Future Fund could be listed on a national securities exchange (''Exchange'') without the need for a filing pursuant to rule 19b–4 under the Exchange Act.

8. The order would amend the Prior Order to delete this condition. Any Future Funds will: (a) Be advised by the Adviser or an entity controlled by or under common control with the Adviser; (b) track underlying equity securities indices that are created, compiled, sponsored or maintained by an entity that is not an affiliated person, as defined in section 2(a)(3) of the Act, or an affiliated person of an affiliated person, of the Adviser, the Distributor, the Trust or any subadviser or promoter of a Future Fund; and (c) comply with the respective terms and conditions of the Prior Order, as amended by the present application.

9. Applicants believe that the modification of the future relief available under the Prior Order would be consistent with sections 6(c) and 17(b) of the Act and that granting the requested relief will facilitate the timely creation of Future Funds and the commencement of secondary market trading of such Future Funds by removing the need to seek additional exemptive relief. Applicants submit that the terms and conditions of the Prior Order have been appropriate for the existing Funds and would remain appropriate for Future Funds. Applicants also submit that tying exemptive relief under the Act to the ability of a Future Fund to be listed on an Exchange without the need for a rule 19b–4 filing under the Exchange Act is not necessary to meet the standards under sections 6(c) and 17(b) of the Act.

Applicants' Condition

Applicants agree that any amended order granting the requested relief will be subject to the same conditions as those imposed by the Prior Order, except for condition 1 to the Prior Order, which will be deleted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–1939 Filed 2–6–07; 8:45 am]

BILLING CODE 8010–01–P

[2] Rule 15c6–1 under the Exchange Act requires that most securities transactions be settled within three business days of the trade. Applicants acknowledge that no relief obtained from the requirements of section 22(e) will affect any obligations applicants may have under rule 15c6–1.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55182; File No. SR–Amex–2006–19]

Self-Regulatory Organizations; American Stock Exchange LLC; Order Approving Proposed Rule Change and Amendment Nos. 1, 2, and 3 Thereto Relating to the Listing and Trading of Options on the Nuveen Municipal Fund Index

January 26, 2007.

I. Introduction

On February 17, 2006, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade options on the Price-Return Nuveen Municipal Closed-End Fund Index (''NMUNP'') (''the Nuveen Municipal Fund Index'' or ''Index''). On July 12, 2006, the Exchange filed Amendment No. 1 to the proposed rule change. On September 19, 2006, the Exchange filed Amendment No. 2 to the proposed rule change. On November 13, 2006, the Exchange filed Amendment No. 3 to the proposed rule change. The proposed rule change was published for comment in the **Federal Register** on December 6, 2006.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange seeks to list and trade cash-settled, European-style index options on the Price-Return Nuveen Municipal Fund Index. Options on the Index will be the first index options based on an index of closed-end funds, and are intended for the use of investors desiring to achieve exposure to a broad section of the national tax-free

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 54813 (November 22, 2006), 71 FR 70801.

municipal closed-end fund market, as well as a hedging vehicle for those investors holding such closed-end funds.

The Index is a capitalization-weighted index based entirely on the shares of Closed-End Funds listed on either the Amex, New York Stock Exchange, Inc. (the ''NYSE'') or the Nasdaq Stock Market, Inc. (''Nasdaq'') that are exempt from federal income tax through investment in bonds issued by state and local governments and agencies. Each component is a NMS stock as defined in Rule 600 under the Securities Exchange Act of 1934 (the ''1934 Act''). Currently, the Index is comprised of the shares of Closed-End Funds that are listed on the Amex or NYSE.

A. Index Design and Composition

The Nuveen Municipal Fund Index is designed to be a broad representation of the U.S. municipal fund market. This Index is capitalization-weighted and includes only those Closed-End Funds domiciled in the U.S. and its territories and that are traded on the Amex, NYSE, or Nasdaq. The component Closed-End Funds are weighted by their market capitalization, which is calculated by multiplying the primary market price by the outstanding shares.

Each of the component Closed-End Funds are required to have a minimum market capitalization of at least $100 million and an average monthly trading volume over the prior six (6) months of at least 500,000 shares. In addition, for newly listed Closed-End Funds to be an index component, at least one (1) dividend payment with an ex-date prior to inclusion in the Index is required.

The Index is calculated based on a market capitalization weighting methodology. In a market capitalization index, components are weighted based on total market value of the outstanding shares, *i.e.*, share price times the number of shares outstanding. The Exchange states that this type of index typically fluctuates in line with the price moves of the components. After the initial weighting of the Index, the weights are updated in conjunction with scheduled quarterly adjustments.

As of January 31, 2006, the Closed-End Funds comprising the Nuveen Municipal Fund Index had an average market capitalization of $414 million, ranging from a high of $1.9 billion (Nuveen Municipal Value Fund Inc. (NUV)) to a low of $101 million (MBIA Capital/Claymore Managed Duration Investment Grade Municipal Fund (MZF)). The number of available shares outstanding ranged from a high of 194.9 million (NUV) to a low of 7.9 million (MZF), and averaged 31.9 million shares. The six-month average daily trading volume for Index components was 45,000 shares per day, ranging from a high of 159,100 shares per day (NUV) to a low of 13,100 shares per day (Morgan Stanley Quality Municipal Securities (IQM)).

B. Index Calculation and Maintenance

The value of the Index will be calculated by the Amex on behalf of Nuveen and will be disseminated at 15-second intervals during regular Amex trading hours to market information vendors via the Consolidated Tape Association (''CTA'') or by other major market data vendors (from another Amex market data feed). The Amex is responsible for making all necessary adjustments to the Index to reflect component deletions, share changes, stock splits, stock dividends (other than an ordinary cash dividend), and stock price adjustments due to restructuring, mergers, or spin-offs involving the underlying components. In the event of component or share weight changes to the Index portfolio, the payment of dividends other than ordinary cash dividends, spin-offs, rights offerings, re-capitalization, or other corporate actions affecting a component of the Index, the index divisor may be adjusted to ensure that such corporate actions do not affect the Index level.

The Exchange states that the methodology used to calculate the value of the Nuveen Municipal Fund Index is similar to the methodology used to calculate the value of other well-known market-capitalization weighted indexes. The level of the Index reflects the total market value of the component Closed-End Funds relative to a particular base period and is computed by dividing the total market value of the Closed-End Funds in the Index by the index divisor. The divisor is adjusted periodically to maintain consistent measurement of the Index.

The Index is reviewed each December, March, June, and September to ensure that at least 90% of the Index weight is accounted for by components that continue to represent the universe of Closed-End Funds that meet the Index methodology maintenance requirements. To remain in the Index, components must maintain a market capitalization of at least $75 million and have a six (6) month average monthly trading volume over 250,000 shares. Changes to Index components and/or the component share weights typically take effect after the close of trading on the third Friday of each calendar quarter month in connection with quarterly rebalancing. The Amex and Nuveen,[4] by mutual agreement, may change the number of issues comprising the Index by adding or deleting one or more components contained in the Index with one or more substitute Closed-End Funds.

C. Continued Listing Standards

The Exchange will apply the following maintenance standards for continued listing: (i) The number of securities in the Index may not drop by one-third or more from the number of components in the Index at the time of initial listing; [5] (ii) no more than 10% or more of the weight of the Index is represented by component securities having a market value of less than $75 million; (iii) no more than 10% of the weight of the Index is represented by component securities trading less than 15,000 shares per day; (iv) the largest component security in the Index accounts for no more than 15% of the weight of the Index, or the largest five components in the aggregate account for more than 50% of the weight of the Index on the first day of January and July each year; or (v) the component securities will be listed and traded on the Amex, the NYSE, or NASDAQ.[6]

If the Index ceases to be maintained or calculated, or its values are not disseminated at least every 15 seconds by the Amex over the CTA (or another major market data vendor) or the above Index maintenance standards are not satisfied, the Exchange would not list

[4] The Commission notes that Nuveen, because it selects the components for the Index, has represented to Amex that it prohibits individuals at Nuveen who will be privy to information about future changes to the Nuveen Municipal Fund Index rules or constituent stocks from trading on that information, for their own benefit or for the benefit of Nuveen's clients. Additionally, Nuveen has represented that it has firewalls around the personnel who have access to information concerning changes and adjustments to the Index. Telephone conversation between Jeffrey P. Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division of Market Regulation (''Division''), Commission on November 17, 2006.

[5] The Exchange states that the Index currently has 86 components, and therefore, may not be comprised of less than 57 components. This representation replaces any prior representation to the effect that the Index could be comprised of no less than 10 components. Telephone conversation between Jeffrey P. Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division, Commission on November 17, 2006.

[6] These maintenance standards are adapted from Commentary .03 of Amex Rule 901C to address the unique characteristics of the closed-end fund Index components, which may not always satisfy Commentary .03(4) of Amex Rule 901C. Telephone conversation between Jeffrey P. Burns, Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division, Commission on November 23, 2006.

any additional series for trading and would limit all transactions in options on the Index to closing transactions only for the purpose of maintaining a fair and orderly market and protecting investors.

D. Contract Specifications

Options on the Nuveen Municipal Fund Index will expire on the Saturday following the third Friday of the expiration month. Trading in options on the Index will normally cease at 4:15 p.m. Eastern time (''ET'') on the Thursday preceding an expiration Saturday. The exercise settlement value at expiration of each Nuveen Municipal Fund Index option will be calculated by the Amex on behalf of Nuveen, based on the opening prices of the Index's component Closed-End Funds on the last business day prior to expiration (''Settlement Day'').[7] The Settlement Day is normally the Friday preceding ''Expiration Saturday.'' If a component Closed-End Fund in the Index does not trade on Settlement Day, the last reported sales price in the primary market from the previous trading day would be used to calculate the settlement value. Settlement values for the Index will be disseminated by the Amex over the CTA.

E. Trading Rules

The Nuveen Municipal Fund Index is a broad stock index group as defined in Amex Rule 900C(b)(1). Options on the Index would be European-style and a.m. cash-settled. The Exchange's standard trading hours for broad-based index options (9:30 a.m. to 4:15 p.m. ET), as set forth in Commentary .02 to Amex Rule 1, will apply to options on the Nuveen Municipal Fund Index. Exchange rules that apply to the trading of options on broad-based indexes will also apply to options on the Index.[8] The trading of these options will also be subject to, among others, Exchange rules governing margin requirements and trading halt procedures for index options.

For options on the Nuveen Municipal Fund Index, the Exchange proposes to establish an aggregate position limit of 25,000 contracts on the same side of the market, provided that no more than 15,000 of such contracts are in the nearest expiration month series.[9] Commentary .01(c) to Rule 904C provides that position limits for hedged index options may not exceed twice the established position limits for broad stock index groups. The Exchange proposes that a hedge exemption of 37,500 be available for the Index. Furthermore, proprietary accounts of member organizations could receive an exemption of up to three times the established position limit for the purpose of facilitating public customer orders, to the extent they comply with the procedures and criteria listed in Commentary .02 to Amex Rules 950(d) and 950(d)—ANTE.

The Exchange proposes to apply broad-based index margin requirements for the purchase and sale of options on the Nuveen Municipal Fund Index. Accordingly, purchases of put or call options with nine months or less until expiration would have to be paid for in full. Writers of uncovered put or call options would have to deposit/maintain 100% of the option proceeds, plus 15% of the aggregate contract value (current index level x $100), less any out-of-the-money amount, subject to a minimum of the option proceeds plus 10% of the aggregate contract value for call options and a minimum of the option proceeds plus 10% of the aggregate exercise price amount for put options.

The Exchange proposes to set a strike price interval of at least 2½ points, at a minimum, for a near-the-money series in a near-term expiration month when the level of the Index is below 200, a 5-point strike price interval, at a minimum, for any options series with an expiration up to one year, and at least a 10-point strike price interval for any longer-term option. The minimum tick size for series trading below $3 would be $0.05, and for series trading at or above $3 would be $0.10.

The Exchange proposes to list options on the Index in the three consecutive near-term expiration months, plus up to three successive expiration months in the March cycle. For example, consecutive expirations of January, February, March, plus June, September, and December expirations would be listed.[10] In addition, long-term option series having up to 60 months to expiration will be traded.[11] The trading of long-term options on the Index will be subject to the same rules that govern all the Exchange's index options, including sales practice rules, margin requirements, and trading rules.

F. Surveillance and Capacity

The Exchange represents that it has an adequate surveillance program in place for options on the Nuveen Municipal Fund Index and intends to apply those same procedures that it applies to the Exchange's other index options. In addition, the Exchange is a member of the Intermarket Surveillance Group (''ISG''). The ISG members work together to coordinate surveillance and share information regarding the stock and options markets.

The Exchange also represents that it has the necessary systems capacity to support the new options series that would result from the introduction of options on the Nuveen Municipal Fund Index, including long-term options.

III. Discussion and Commission's Findings

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, applicable to a national securities exchange.[12] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[13] and will promote just and equitable principles of trade, and facilitate transactions in securities, and, in general, protect investors and the public interest.

The Commission notes that the Nuveen Municipal Fund Index (i) is designed broadly to represent the U.S. national tax-free municipal closed-end fund market with a current composition of eighty-six (86) closed-end funds that are listed on U.S. securities exchanges and (ii) shall be comprised of no fewer than fifty-seven (57) component closed-end funds at any time.

Currently, the Index is broad-based and well-diversified. In the event, however, that the Index's characteristics change materially from the characteristics described herein and on which the Commission is basing its findings, the Exchange would not rely on this approval order to list and trade these options. Under such circumstances, the Exchange would not list any additional series for trading and would limit all transactions in options on the Index to closing transaction.

The Commission notes that while the Index will be monitored and maintained by Nuveen, the value of the Index will be calculated and disseminated by the Exchange in 15-second intervals throughout the trading day. The Exchange will limit transactions to closing transactions if the Index value is not calculated and disseminated by a major market data vendor or the CTA at least every 15-seconds during the time the options trade on the Exchange.

[7] The aggregate exercise value of the option contract is calculated by multiplying the Index value by the Index multiplier, which is 100.

[8] *See* Amex Rules 900C through 980C.

[9] The same limits that apply to position limits would apply to exercise limits for these products.

[10] *See* Amex Rule 903C(a).

[11] *See* Amex Rule 903C(a)(iii).

[12] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78f(b)(5).

The Commission notes that Nuveen, because it selects the components for the Index, has represented to Amex that it prohibits individuals at Nuveen who will be privy to information about future changes to the Nuveen Municipal Fund Index rules or constituent stocks from trading on that information, for their own benefit or for the benefit of Nuveen's clients. Additionally, Nuveen has represented that it has firewalls around the personnel who have access to information concerning changes and adjustments to the Index. Additionally, the Commission notes that Amex will incorporate and rely upon its existing surveillance procedures governing index options, which it states are adequate to deter as well as detect any potential manipulation.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–Amex–2006–19), as modified by Amendment Nos. 1, 2 and 3, be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Nancy M. Morris,

Secretary.

[FR Doc. E7–1937 Filed 2–6–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55213; File No. SR–Amex–2006–118]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to Generic Listing Standards for Series of Portfolio Depositary Receipts and Index Fund Shares Based on Fixed Income Indexes

January 31, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 22, 2006, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared substantially by the Exchange. On January 26, 2007, the Exchange filed Amendment No. 1.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to revise Amex Rules 1000 and 1000A to include generic listing standards for series of portfolio depositary receipts (''PDRs'') and index fund shares (''IFSs'') (together referred to as ''exchange-traded funds'' or ''ETFs'') that are based on fixed income indexes or indexes consisting of both equity and fixed income securities (''combination indexes'').

The text of the proposed rule change is available at the Amex, at the Commission's Public Reference Room, and on the Exchange's Web site at *www.amex.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add Commentaries .04, .05, and .06 to Amex Rule 1000 and Commentaries .03, .04, and .05 to Amex Rule 1000A to include generic listing standards for series of PDRs and IFSs that are based on fixed income indexes or combination indexes. These generic listing standards would be applicable to fixed income indexes and combination indexes that the Commission has yet to review as well as those fixed income indexes described in exchange rule changes that have previously been approved by the Commission under Section 19(b)(2) of the Act for the trading of ETFs, options, or other index-based securities. The Exchange also proposes to amend Amex Rules 1000(b)(1) and 1000A(b)(1) to revise the definitions of PDR and IFS to include ETFs based on fixed income indexes and combination indexes. This proposal would enable the Exchange to list and trade ETFs pursuant to Rule 19b–4(e) under the Act[4] if each of the conditions set forth in either Commentaries .04 and .05 to Rule 1000 or Commentaries .03 and .04 to Rule 1000A, as applicable, are satisfied.

Background

Exchange-Traded Funds. Amex Rules 1000 *et seq.* allow for the listing and trading on the Exchange of PDRs. A PDR represents an interest in a unit investment trust registered under the Investment Company Act of 1940 (the ''1940 Act'')[5] that operates on an open-end basis and which holds the securities that comprise an index or portfolio. Amex Rules 1000A *et seq.* provide standards for listing IFSs, which are securities issued by an open-end management investment company (*i.e.*, an open-end mutual fund) based on a portfolio of securities that seeks to provide investment results that correspond generally to the price and yield performance or total return performance of a specified foreign or domestic stock index or fixed income index. Pursuant to Rules 1000 *et seq.* and 1000A *et seq.*, PDRs or IFSs must be issued in a specified aggregate minimum number in return for a deposit of specified securities and/or a cash amount, with a value equal to the next determined net asset value. When aggregated in the same specified minimum number, PDRs or IFSs must be redeemed by the issuer for the securities and/or cash, with a value equal to the next determined net asset value. Consistent with Amex Rules 1002 and 1002A, the net asset value is calculated once a day after the close of the regular trading day.

To meet the investment objective of providing investment returns that correspond to the performance of the underlying index, an ETF may use a ''replication'' strategy or a ''representative sampling'' strategy with respect to the ETF portfolio. An ETF using a replication strategy will invest in each component security of the underlying index in about the same proportion as that security is represented in the index itself. An ETF using a representative sampling strategy will generally invest in a significant number, but perhaps not all, of the component securities of the underlying

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(l).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange modified the proposed rule text and corresponding description of its proposal. Amendment No. 1 replaced and superseded the original filing in its entirety.

[4] 17 CFR 240.19b–4(e).

[5] 15 U.S.C. 80a.

index, and will hold securities that, in the aggregate, are intended to approximate the full index in terms of certain key characteristics. In the context of a fixed income index, such characteristics may include liquidity, duration, maturity, and yield.

In addition, an ETF portfolio may be adjusted in accordance with changes in the composition of the underlying index or to maintain compliance with requirements applicable to a regulated investment company under the Internal Revenue Code (''IRC'').[6]

Generic Listing Standards for Exchange-Traded Funds. The Exchange notes that the Commission has previously approved generic listing standards contemplated by Rule 19b–4(e) under the Act for ETFs based on indexes that consist of stocks listed on U.S. and non-U.S. exchanges.[7] This proposal seeks to adopt generic listing standards for fixed income and combination indexes that generally reflect existing generic listing standards for equities, but are tailored for the fixed income markets.

The Exchange notes that the Commission has previously approved the listing and trading of ETFs based on certain fixed income indexes[8] as well as structured notes linked to a basket or index of fixed income securities.[9] In addition, the Commission has also approved listing standards for other index-based derivatives that permit the listing—pursuant to Rule 19b–4(e)—of such securities where the Commission had previously approved the trading of specified index-based derivatives on the same index, on the condition that all of the standards set forth in the original order are satisfied by the exchange employing generic listing standards.[10]

The Exchange believes that adopting additional generic listing standards for ETFs based on fixed income indexes and applying Rule 19b–4(e) should fulfill the intended objective of that rule by allowing those ETFs that satisfy the proposed generic listing standards to commence trading, without the need for individualized Commission approval. The proposed rules have the potential to reduce the time frame for bringing ETFs to market, thereby reducing the burdens on issuers and other market participants. The Exchange submits that the failure of a particular ETF to comply with the proposed generic listing standards would not, however, preclude the Exchange from submitting a separate filing pursuant to Section 19(b)(2) requesting Commission approval to list and trade a particular ETF.

Fixed Income and Combination Index ETFs

Requirements for Listing and Trading ETFs Based on Fixed Income Indexes. Exchange-traded funds listed pursuant to the proposed generic listing standards for fixed income indexes would be traded, in all other respects, under the Exchange's existing trading rules and procedures that apply to ETFs and would be covered under the Exchange's surveillance program for ETFs.[11] The Exchange represents that its surveillance procedures are adequate to properly monitor the trading of ETFs listed pursuant to the proposed new listing standards. In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

In order to list an ETF pursuant to the proposed generic listing standards for fixed income indexes, the index underlying the ETF must satisfy all the conditions contained in proposed Commentary .04 to Rule 1000 (for PDRs) or proposed Commentary .03 to Rule 1000A (for IFSs). As with existing generic listing standards for ETFs based on domestic and international or global indexes, the proposed generic listing standards are intended to ensure that fixed income securities with substantial market distribution and liquidity account for a substantial portion of the weight of an index or portfolio. While the standards in this proposal are loosely based on the standards contained in Commission and Commodity Futures Trading Commission (''CFTC'') rules regarding the application of the definition of narrow-based security index to debt security indexes[12] as well as existing fixed income ETFs, they have been adapted as appropriate to apply generally to fixed income indexes for ETFs.

Fixed Income Securities

As proposed, Commentary .04 to Rule 1000 and Commentary .03 to Rule 1000A define the term ''Fixed Income Securities'' to include notes, bonds (including convertible bonds), debentures, or evidence of indebtedness that include, but are not limited to, U.S. Treasury securities (''Treasury Securities''), government-sponsored entity securities (''GSE Securities''), municipal securities, trust-preferred securities,[13] supranational debt,[14] and debt of a foreign country or subdivision thereof. This new definition is designed to create a category of ETFs based on

[6] For an ETF to qualify for tax treatment as a regulated investment company, it must meet several requirements under the IRC. Among these is the requirement that, at the close of each quarter of the ETF's taxable year, (i) At least 50% of the market value of the ETF's total assets must be represented by cash items, U.S. government securities, securities of other regulated investment companies, and other securities, with such other securities limited for purposes of this calculation in respect of any one issuer to an amount not greater than 5% of the value if the ETF's assets and not greater than 10% of the outstanding voting securities of such issuer; and (ii) not more than 25% of the value of its total assets may be invested in the securities of any one issuer, or two or more issuers that are controlled by the ETF (within the meaning of Section 851(b)(4)(B) of the IRC) and that are engaged in the same or similar trades or businesses or related trades or business (other than U.S. government securities or the securities of other regulated investment companies).

[7] *See* Securities Exchange Act Release Nos. 54739 (November 9, 2006), 71 FR 66993 (November 17, 2006) (for ETFs based on global and international indexes) and 42787 (May 15, 2000), 65 FR 33598 (May 24, 2000) (for ETFs based on indexes comprised of U.S. stocks).

[8] *See* Securities Exchange Act Release Nos. 46252 (July 24, 2002), 67 FR 49715 (July 31, 2002) (approving the listing and trading of funds based on U.S. Treasury or corporate bond indexes); 46738 (October 29, 2002), 67 FR 67666 (November 6, 2002) (approving the listing and trading of FITRS) and 52870 (December 1, 2005), 70 FR 73039 (December 8, 2005) (approving the trading on a UTP basis of the iShares Lehman TIPS Bond Fund).

[9] *See* Securities Exchange Act Release Nos. 41334 (April 27, 1999), 64 FR 23883 (May 4, 1999) (approving the listing and trading of Bond Indexed Term Notes); 46923 (November 27, 2002), 67 FR 72247 (December 4, 2002) (approving the listing and trading of trust units linked to a basket of investment-grade fixed income securities); 48484 (September 11, 2003), 68 FR 54508 (September 17, 2003) (approving the listing and trading of trust certificates linked to a basket of up to five investment-grade fixed income securities plus U.S. Treasury securities); and 50355 (September 13, 2004), 69 FR 56252 (September 20, 2004) (approving generic listing standards for trust certificates linked to portfolios of investment grade securities and U.S. Treasury securities).

[10] *See* Amex Company Guide Section 107D (Index-Linked Securities); Securities Exchange Act Release No. 51563 (April 15, 2005), 70 FR 21257 (April 25, 2005).

[11] *See* Amex Rules 1000 through 1006 and 1000A through 1005A.

[12] *See* Securities Exchange Act Release No. 54106 (July 6, 2006), 71 FR 39534 (July 13, 2006) (File No. S7–07–06) (the ''Joint Rules'').

[13] Trust-preferred securities are undated cumulative securities issued from a special purpose trust in which a bank or bank holding company owns all of the common securities. The trust's sole asset is a subordinated note issued by the bank or bank holding company. Trust preferred securities are treated as debt for tax purposes so that the distributions or dividends paid are a tax-deductible interest expense.

[14] Supranational debt represents the debt of international organizations such as the World Bank, the International Monetary Fund, regional multilateral development banks, and multilateral financial institutions. Examples of regional multilateral development banks include the African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development, and the Inter-American Development Bank. In addition, examples of multilateral financial institutions include the European Investment Bank and the International Fund for Agricultural Development.

fixed income indexes that may be listed and traded pursuant to Rule 19b–4(e) under the Act.

For purposes of the proposed definition, a convertible bond is deemed to be a Fixed Income Security up until the time that it is converted into its underlying common or preferred stock.[15] Once converted, the equity security may no longer continue as a component of a fixed income index under the proposed rules, and accordingly, would have to be removed from such index for the ETF to remain listed pursuant to proposed Commentary .04 to Rule 1000 or Commentary .03 to Rule 1000A.

The Exchange proposes that, to list an ETF based on a fixed income index pursuant to the generic standards, the index must meet the following criteria:

• The index or portfolio must consist of Fixed Income Securities;

• Components that in aggregate account for at least 75% of the weight of the index or portfolio must have a minimum original principal amount outstanding of $100 million or more;

• No component Fixed Income Security (excluding a Treasury Security) represents more than 30% of the weight of the index, and the five highest weighted component fixed income securities in the index do not in the aggregate account for more than 65% of the weight of the index;

• An underlying index or portfolio (excluding one consisting entirely of exempted securities) must include a minimum of 13 non-affiliated issuers; and

• Component securities that in aggregate account for at least 90% of the weight of the index or portfolio must be either:

➢ From issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act;[16]

➢ From issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more;

➢ From issuers that have outstanding securities that are notes, bonds, debentures, or evidences of indebtedness having a total remaining principal amount of at least $1 billion;

➢ Exempted securities, as defined in Section 3(a)(12) of the Act;[17] or

➢ From issuers that are governments of foreign countries or political subdivisions of foreign countries.

The Exchange believes that these proposed component criteria standards are reasonable for fixed income indexes, and, when applied in conjunction with the other listing requirements, would result in ETFs that are sufficiently broad-based in scope and not readily susceptible to manipulation.

The Exchange notes that the proposed standards are similar to the standards set forth by the Commission and the CFTC in the Joint Rules as well as existing fixed-income-based ETFs. First, in the proposed standards, component fixed income securities that in the aggregate account for at least 75% of the weight of the index or portfolio would have to have a minimum original principal amount outstanding of at least $100 million. This is virtually identical to the corresponding standard in Section 107E(a)(x) of the Amex *Company Guide* for trust certificates. Second, in the proposed standards, the most heavily weighted component stock cannot exceed 30% of the weight of the index or portfolio, consistent with the standard for U.S. equity ETFs set forth in Commentaries .03(a)(A) to Rule 1000 and .02(a)(A) to Rule 1000A. In addition, this standard is identical to the standard set forth by the Commission and the CFTC in the Joint Rules.[18] Third, in the proposed standards, the five most heavily weighted component securities could not exceed 65% of the weight of the index or portfolio, consistent with the standard for U.S. equity ETFs set forth in Commentaries .03(a)(A) to Rule 1000 and .02(a)(A) to Rule 1000A as well as the Joint Rules. Fourth, the minimum number of fixed income securities (except for portfolios consisting entirely of exempted securities, such as Treasury Securities or GSEs) from unaffiliated[19] issuers in the proposed standards is 13, consistent with the standard for U.S. equity ETFs set forth in Commentaries .03(a)(A) to Rule 1000 and .02(a)(A) to Rule 1000A and the Joint Rules. This requirement together with the diversification standards set forth above would provide assurance that the fixed income securities comprising an index would not be overly dependent on the price behavior of a single component or small group of components.

Finally, the proposed standards would require that at least 90% of the weight of the index or portfolio must be either (i) From issuers that are required to file reports pursuant to Sections 13 and 15(d) of the Act;[20] (ii) from issuers that have a worldwide market value of its outstanding common equity held by non-affiliates of $700 million or more; (iii) from issuers that have outstanding securities that are notes, bonds, debentures, or evidences of indebtedness having a total remaining principal amount of at least $1 billion; (iv) exempted securities, as defined in Section 3(a)(12) of the Act;[21] or (v) from issuers that are governments of foreign countries or political subdivisions of foreign countries. This proposed standard is consistent with a similar standard in the Joint Rules and is designed to ensure that the component fixed income securities have sufficient publicly available information.

The proposed generic listing requirements for fixed income ETFs would not require that component securities in an underlying index have an investment-grade rating.[22] In addition, the proposed requirements would not require a minimum trading volume, due to the lower trading volume that generally occurs in the fixed income markets as compared to the equity markets. However, the Exchange submits that the minimum principal amount outstanding requirement of $100 million, coupled with the proposed concentration requirements, would severely reduce the likelihood that an ETF listed under the proposal would be readily susceptible to manipulation. In all cases, Multiple or Inverse ETFs, which are considered for listing pursuant to Rule 1000A(b)(2), may not be the subject of these proposed generic listing standards.

Requirements for Listing and Trading ETFs Based on Combination Indexes. The Exchange also seeks to list and trade ETFs based on a combination of equity and fixed income securities or a composite index that would consist of an equity index and fixed income index (collectively, ''combination indexes''). An ETF listed pursuant to the generic standards for combination indexes would be traded, in all other respects, under the Exchange's existing trading

[15] The Exchange notes that, under the Section 3(a)(11) of the Act, 15 U.S.C. 78c(a)(11), a convertible security is defined as an equity security. However, for the purpose of the proposed generic listing criteria, Amex believes that defining a convertible security (prior to its conversion) as a Fixed Income Security is consistent with the objectives and intention of the generic listing standards for fixed-income-based ETFs as well as the Act.

[16] 15 U.S.C. 78m and 78o(d).

[17] 15 U.S.C. 78c(a)(12).

[18] *See* note 12 *supra.*

[19] Rule 405 under the Securities Act of 1933, 17 CFR 230.405, defines an affiliate as a person that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, such person. Control, for this purpose, is the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

[20] 15 U.S.C. 78m and 78o(d).

[21] 15 U.S.C. 78c(a)(12).

[22] *See* Joint Rules, 71 FR at 30538.

rules and procedures that apply to ETFs and would be covered under the Exchange's surveillance program for ETFs.[23]

To list an ETF pursuant to the proposed generic listing standards for combination indexes, an index underlying a PDR or IFS must satisfy all the conditions contained in proposed Commentary .05 to Rule 1000 (for PDRs) or proposed Commentary .04 to Rule 1000A (for IFSs). These generic listing standards are intended to ensure that securities with substantial market distribution and liquidity account for a substantial portion of the weight of both the equity and fixed income portions of an index or portfolio.

Proposed Commentaries .05 to Rule 1000 and .04 to Rule 1000A would provide that the Exchange may approve series of PDRs and IFSs—based on a combination of indexes or a series of component securities representing the U.S. or domestic equity market, the international equity market, and the fixed income market—for listing and trading pursuant to Rule 19b–4(e) under the Act. The standards that an ETF would have to comply with are as follows: (i) Such portfolio or combination of indexes has been described in exchange rule changes reviewed and approved for the trading of options, PDRs, IFSs, Index-Linked Exchangeable Notes, or Index-Linked Securities by the Commission under Section 19(b)(2) of the Act, and all of the standards set forth in the original order are satisfied by the exchange employing generic listing standards; or (ii) the equity portion and fixed income portion of the component securities separately meet the criteria set forth in Commentary .03 (equities) and proposed Commentary .04 (fixed income) for PDRs and Commentary .02 (equities) and proposed Commentary .03 (fixed income) for IFSs. In all cases, however, Multiple or Inverse ETFs, which are considered for listing pursuant to Rule 1000A(b)(2), may not be the subject of these proposed generic listing standards.

Index Methodology and Dissemination. The Exchange proposes to adopt Commentaries .04(b) and .05(a) to Rule 1000 and Commentaries .03(b) and .04(a) to Rule 1000A to establish requirements for index methodology and dissemination in connection with fixed income and combination indexes.

If a broker-dealer is responsible for maintaining (or has a role in maintaining) the underlying index, such broker-dealer would be required to erect and maintain a ''firewall,'' in a form satisfactory to the Exchange, to prevent the flow of non-public information regarding the underlying index from the personnel involved in the development and maintenance of such index to others such as sales and trading personnel.

With respect to index dissemination, the Exchange proposes to adopt Commentaries .04(b)(iii) and .05(a)(iii) to Rule 1000 and Commentaries .03(b)(iii) and .04(a)(iii) to Rule 1000A to require that the index value for an ETF listed pursuant to the proposed standards for fixed income be widely disseminated by one or more major market data vendors at least once a day during the time when the ETF shares trade on the Exchange. If the index value does not change during some or all of the period when trading is occurring on the Exchange, the last official calculated index value must remain available throughout Exchange trading hours. This reflects the nature of the fixed income markets as well as the frequency of intra-day trading information with respect to fixed income indexes. To the extent that an ETF is based on a combination index, the index would have to be widely disseminated by one or more major market data vendors at least every 15 seconds during the time when the ETF shares trade on the Exchange to reflect updates for the prices of the equity securities included in the combination index. The fixed income portion of the combination index would have to be updated at least daily.

Application of General Rules. Commentaries .06 to Rule 1000 and .05 to Rule 1000A would be added to identify those characteristics of ETFs that would apply to all such series of PDRs or IFSs based on fixed income or combination indexes. This would include the dissemination of the Intraday Indicative Value, an estimate of the value of a share of each ETF, updated at least every 15 seconds. In addition, proposed Commentaries .05 to Rule 1000 and .06 to Rule 1000A would set forth the requirements for PDRs or IFSs relating to initial shares outstanding, minimum price variation, listing fees, surveillance procedures, and the application of PDR or IFS rules, as applicable.

The Exchange states that the Commission has approved generic standards providing for the listing pursuant to Rule 19b–4(e) of other derivative products based on indexes described in rule changes previously approved by the Commission under Section 19(b)(2) of the Act. The Exchange proposes to include in the generic standards for the listing of PDRs and IFSs based on fixed income and combination indexes, in new Commentary .04 to Rule 1000 and Commentary .03 to Rule 1000A, indexes that have been approved by the Commission in connection with the listing of options, Portfolio Depository Receipts, Index Fund Shares, Index-Linked Exchangeable Notes, or Index-Linked Securities. The Exchange believes that the application of that standard to ETFs is appropriate because the underlying index would have been subject to detailed and specific Commission review in the context of the approval of listing of other derivatives.[24]

The Exchange notes that existing Rules 1002 and 1002A provide continued listing standards for all PDRs and IFSs. For example, where the value of the underlying index or portfolio of securities on which the ETF is based is no longer calculated or available, or in the event that the ETF chooses to substitute a new index or portfolio for the existing index or portfolio, the Exchange would commence delisting proceedings if the new index or portfolio does not meet the requirements of and listing standards set forth in Rules 1000 *et seq.* or Rules 1000A *et seq.*, as applicable. If an ETF chose to substitute an index that did not meet any of the generic listing standards for listing of ETFs pursuant to Rule 19b–4(e) under the Act, then for continued listing and trading, approval by the Commission of a separate filing pursuant to Section 19(b)(2) to list and trade that ETF would be required. The Exchange further notes that existing Amex Rules 1002(a)(ii) and 1002A(a)(ii) provide that, before approving an ETF for listing, the Exchange will obtain a representation from the ETF issuer that the net asset value per share will be calculated daily and made available to all market participants at the same time.

The trading halt requirements for existing ETFs will similarly apply to fixed income and combination index ETFs. In particular, Rules 1002(b)(ii) and 1002A(b)(iv) provide that, if the Intraday Indicative Value or the index value applicable to that series of ETFs is not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the Intraday Indicative Value or the index value occurs. If the interruption to the dissemination of the Intraday Indicative Value or the index value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning

[23] *See* Amex Rules 1000 through 1006 and 1000A through 1005A.

[24] *See supra* notes 7 and 9.

of the trading day following the interruption.[25]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [26] in general, and furthers the objectives of Section 6(b)(5) of the Act [27] in particular, in that it is designed to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change would impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on this proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

The Amex has requested accelerated approval of the proposed rule change. The Commission had determined that a public notice and comment period is appropriate.

[25] If an ETF is traded on the Exchange pursuant to unlisted trading privileges, the Exchange would halt trading if the primary listing market halts trading in such ETF because the Intraday Indicative Value and/or the index value is not being disseminated. *See* Securities Exchange Act Release No. 55018 (December 28, 2006), 72 FR 1040 (January 9, 2007) (SR Amex–2006–109).

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(5).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Amex–2006–118 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Amex–2006–118. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2006–118 and should be submitted on or before February 22, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[28]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–1998 Filed 2–6–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55197; File No. SR–BSE–2007–02]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Boston Options Exchange Fee Schedule

January 30, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 22, 2007, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the BSE. The BSE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the BSE under Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes the following changes to the Fee Schedule for the Boston Options Exchange (''BOX''). The first proposed change to the Fee Schedule relates to the Penny Pilot Program.[5] This proposed change will allow BOX to introduce lower fees for those instruments that are included in the Penny Pilot Program, which trade in increments of one cent. The second proposed change is to amend the Fee Schedule to permanently eliminate a fee that is currently waived. Finally, the

[28] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* Securities Exchange Release No. 54789 (November 20, 2006), 71 FR 68654 (November 27, 2006) (SR–BSE–2006–49).

Exchange proposes to amend the Minimum Activity Charge (''MAC'') contained in the BOX Fee Schedule. The proposed change is to account for the effect that current market conditions have had on the MAC. The text of the proposed rule change is available at the BSE, the Commission's Public Reference Room, and *http://www.bostonstock.com/legal/filings/07–02.pdf.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the BSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The BSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes the following changes to the BOX Fee Schedule. The first proposed change to the Fee Schedule relates to the Penny Pilot Program. This proposed change will allow BOX to introduce lower fees for those instruments that are included in the Penny Pilot Program, which trade in increments of one cent. The second proposed change is to amend the Fee Schedule to permanently eliminate a fee that is currently waived. Finally, the Exchange proposes to amend the MAC contained in the BOX Fee Schedule. The proposed change is to account for the effect that current market conditions have had on the MAC. The three proposed changes to the Fee Schedule are discussed in further detail below.

(a) Reduction in Fees Related to the Penny Pilot Program

The Exchange is proposing to lower fees for those instruments that are included in the Penny Pilot Program, which trade in increments of one cent. This proposed change will reduce the trading fees for those instruments from the standard trading fee of $0.20 per contract traded to a fee of $0.15 per contract traded. BOX believes that this reduction in fees will encourage trading for those classes traded in the Penny Pilot Program.

(b) Removal of Fee Which is No Longer Charged

BOX does not currently charge the $0.40 per contract fee for contracts for Broker Dealer Proprietary Accounts and Market Makers traded against an order the Trading Host filters to prevent trading through the NBBO. BOX proposes to delete the charge from the BOX Fee Schedule to conform the Fee Schedule to reflect BOX's current practice. The proposed change will accurately reflect the charges that BOX levies on its Participants.[6]

(c) Changes to the MAC

Recent increases in options trading have resulted in many BOX listed classes to be reclassified into higher MAC categories. BOX is seeking to amend its existing MAC program to provide uniform fee relief to its Participants. The proposed change alters the month in which the MAC reclassifications are calculated from January to July. The changes to the MAC program are being proposed to prevent unnecessary fee increases for BOX Participants.[7] Moving the month of reclassification to July will afford BOX the opportunity to keep the current MAC classifications the same for an additional six months, thus keeping fees to Participants the same.[8] No changes are being sought to alter the fundamental structure of the existing program.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act,[9] in general, and Section 6(b)(4) of the Act,[10] in particular, which requires that an exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [11] and Rule 19b–4(f)(2) [12] thereunder because it changes a fee imposed by the Exchange. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File No. SR–BSE–2007–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BSE–2007–02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule

[6] The Exchange clarified that the $0.40 per contract fee is being deleted from the Fee Schedule because BOX has been waiving the fee for Broker Dealer Proprietary Accounts and Market Makers. Telephone conference between Lisa Fall, General Counsel, BOX; Brian Donnelly, Assistant Vice President, Regulation and Compliance, BSE; David Liu, Senior Special Counsel, Commission; and Jan Woo, Attorney, Commission, on January 26, 2007.

[7] The Exchange clarified that moving the reclassification to July may provide relief to BOX Participants for six months. *Id.*

[8] *Id.*

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 19b–4(f)(2).

change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the BSE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-BSE–2007–02 and should be submitted on or before February 28, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–1944 Filed 2–6–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55217; File No. SR–FICC–2006–16]

Self-Regulatory Organizations; The Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Replace the Government Securities Division Clearing Fund Calculation Methodology With a Yield-Driven Value-at-Risk Methodology

January 31, 2007.

I. Introduction

On October 4, 2006, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission'') and on November 14, 2006, amended proposed rule change SR–FICC–2006–16 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposal was published in the **Federal Register** on December 27, 2006.[2] The Commission received no comment letters in response to the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description

FICC seeks to replace the Government Securities Division (''GSD'') margin calculation methodology with a value-at-risk (''VaR'') methodology.

Netting members of FICC's GSD are required to maintain clearing fund deposits. Each member's required clearing fund deposit is calculated daily to ensure that enough funds are available to cover the risks associated with that member's activities. The purposes served by the clearing fund are to: (i) Have on deposit at FICC funds from each member sufficient to satisfy any losses that may be incurred by FICC or its members resulting from the default by a member and the resultant close out of that member's settlement positions and (ii) ensure that FICC has sufficient liquidity at all times to meet its payment and delivery obligations.

FICC proposes to replace the current clearing fund methodology used at GSD, which uses haircuts and offsets, with a yield-driven VaR methodology that is expected to better reflect market volatility and more thoroughly distinguish the levels of risk presented by individual securities. VaR is defined to be the maximum amount of money that may be lost on a portfolio over a given period of time within a given level of confidence. With respect to the GSD, FICC will use a 99 percent three-day VaR.[3]

The changes to the components that comprise the current clearing fund methodology compared to the proposed VaR methodology in relation to the risks addressed by the components are summarized below.

Existing methodology	Risk addressed	Proposed methodology[4]
Receive/Deliver component using margin factors.	Fluctuation in security prices	Interest rate or index-driven model, as appropriate.[5]
Repo Volatility component	Fluctuation in repo interest rates	Repo index-driven model.[6]
Funds Adjustment Deposit component (based on the average size of the member's 20 highest funds-only settlement amounts over the most recent 75 business days).	Uncertainty of whether a member will satisfy its funds-only settlement obligation.	Margin Requirement Differential (''MRD'') (a portion of which is based on the historical size of a member's funds-only settlement obligation).
Average Post Offset Margin Amount component (based on the 20 highest margin amounts derived from all outstanding net settlement positions over the most recent 75 business days).	Uncertainty of whether a member will satisfy its next clearing fund call.	MRD (a portion of which is based on the historical variability of a member's clearing fund requirement).
Not specifically covered	Intraday risk and additional exposure due to portfolio variation and potential loss in unlikely situations beyond the model's effective range.	Coverage Component (if necessary, applies additional minimum charge to bring coverage to the applicable confidence level).

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 54964 (December 19, 2006), 71 FR 77835 (SR–FICC–2006–16).

[3] Category 2 Dealers and Category 2 Futures Commission Merchants will be subject to higher confidence levels than other Netting Members.

[4] Under the current GSD rules, Category 1 Inter-Dealer Brokers are subject to a flat $5 million clearing fund requirement. This proposed rule change does not alter that requirement.

[5] FICC will have the discretion to not apply the interest rate model to classes of securities whose volatility is less amenable to statistical analysis, which is usually due to a lack of pricing history. In lieu of such a calculation, the required charge with respect to such positions will be determined based on a historic index volatility model.

[6] FICC is adopting a new definition for ''Term Repo Transaction'' to clarify the types of transactions covered by this component. As proposed, Term Repo Transaction will mean, on any particular Business Day, a Repo Transaction for which settlement of the Close Leg ''is scheduled to occur two or more Business Days after the scheduled settlement of the Start Leg.'' In addition, the existing definition for ''Term GCF Repo Transaction'' is being revised to conform to the language for ''Term Repo Transaction'' as the new definition provides greater clarity as to transactions covered.

In addition, FICC will be able to include in a member's clearing fund requirement a ''special charge'' based on such factors as FICC determines to be appropriate from time to time. Such factors may include, but are not limited to, such things as price fluctuation, volatility, or lack of liquidity.

The proposed VaR methodology will necessitate a change to FICC's risk management consequences of the late allocation of repo substitution collateral. Because offset classes and margin rates will no longer be present in the revised GSD rules, FICC will base the margining for such a generic CUSIP on the same calculation as that used for securities whose volatility is less amenable to statistical analysis.[7]

The VaR methodology will not include calculations that are incorporated in the GSD's current cross-margining programs with The Clearing Corporation (''TCC'') and with the Chicago Mercantile Exchange (''CME''). In order to provide for continuity of cross-margining following the implementation of the VaR methodology and because certain key calculations required for cross-margining are unique to cross-margining, FICC will continue to perform the applicable cross-margining calculations outside of the VaR model. FICC will then adjust the cross-margining clearing fund calculation using a scaling ratio of the VaR clearing fund calculation to the cross-margining clearing fund calculation so that the clearing fund amount available for cross-margining is appropriately aligned with the VaR model. The proposed changes described herein will necessitate amendments to FICC's cross-margining agreements with TCC and with CME as follows:

1. The definition of FICC's ''Margin Rate'' in each of the agreements will be amended to reflect that the margin rate will no longer be based on margin factors published in the current rules (as these will no longer be applied under the VaR methodology). Instead, they will be determined based on a percentage that will be determined using the same parameters and data (*e.g.*, confidence level and historic indices) as those used to generate margin factors in the current rules.

2. Section 5(a) of each cross-margining agreement will be amended to state that FICC's residual margin amount will be calculated as specified in the agreement and will be adjusted, if necessary, to correct for differences between the methodology of calculating the residual margin amount as described in the agreement and the VaR methodology. This change will be necessary to account for the deletion of relevant margin factors and disallowance schedules (which, like the margin factors, are incorporated into the agreements by reference) from GSD rules and to adjust for the possibility that the new VaR methodology could generate a charge that would otherwise allow for a cross-margining reduction that is greater than the margin requirement.

[7] Securities Exchange Act Release No. 53534 (March 21, 2006), 71 FR 15781 (March 29, 2006) (File No. SR–FICC–2005–18). This rule change created a generic CUSIP offset and applicable margin rate for determining clearing fund consequences for such late allocations.

III. Discussion

Section 19(b) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds in FICC's custody or control or for which it is responsible.[8] Because FICC's proposed rule change implements a VaR methodology that should better reflect market volatility and should more thoroughly distinguish the levels of risk presented by individual securities, FICC should be able to more accurately calculate the risk presented by each of its member's activity and to collect clearing fund to protect against that risk. As a result, FICC should be in a better position to assure the safeguarding of securities and funds in its custody or control or for which it is responsible.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular Section 17A of the Act and the rules and regulations thereunder. In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation.[9]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–FICC–2006–16) be and hereby is approved.

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 15 U.S.C. 78c(f).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–1948 Filed 2–6–07; 8:45 am]

BILLING CODE 8010–01–P

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55221; File No. SR–ISE–2007–06]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee Changes

February 1, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 22, 2007, the International Securities Exchange, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the ISE. The ISE has designated this proposal as one establishing or changing a due, fee, or other charge applicable only to a member under Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to amend its Schedule of Fees to establish fees for transactions in options on one Premium Product.[5] The text of the proposed rule change is available on the ISE's Web site (*http://www.iseoptions.com/legal/proposed_rule_changes.asp*), at the ISE, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] ''Premium Products'' is defined in the Schedule of Fees as the products enumerated therein.

purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend its Schedule of Fees to establish fees for transactions in options on the following Premium Product: The ISE Integrated Oil & Gas Index (''PMP'').[6] Specifically, the Exchange is proposing to adopt an execution fee and a comparison fee for all transactions in options on PMP.[7] The amount of the execution fee and comparison fee for PMP shall be $0.15 and $0.03 per contract, respectively, for all Public Customer Orders[8] and Firm Proprietary orders. The amount of the execution fee and comparison fee for all ISE Market Maker transactions shall be equal to the execution fee and comparison fee currently charged by the Exchange for ISE Market Maker transactions in equity options.[9] Finally, the amount of the execution fee and comparison fee for all non-ISE Market Maker transactions shall be $0.16 and $0.03 per contract, respectively. All of the applicable fees covered by this filing are identical to fees charged by the Exchange for all other Premium Products. Further, since options on PMP are not multiply-listed, the Payment for Order Flow fee shall not apply. The Exchange believes the proposed rule change will further the Exchange's goal of introducing new products to the marketplace that are competitively priced.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(4) of the Act[10] that the rules of an exchange provide for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(2)[12] thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–ISE–2007–06 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2007–06. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2007–06 and should be submitted on or before February 28, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–1997 Filed 2–6–07; 8:45 am]

BILLING CODE 8010–01–P

[6] The Exchange represents that PMP, a narrow-based index, meets the standards of ISE Rule 2002(b), which allows the ISE to begin trading this product by filing a Form 19b–4(e) at least five business days after commencement of trading this new products pursuant to Rule 19b–4(e) under the Act. Accordingly, the ISE represents that it has submitted the required Form 19b–4(e) to the Commission. *See* Telephone conversation between Samir Patel, Assistant General Counsel, ISE, and Richard Holley III, Special Counsel, Division of Market Regulation, Commission, on January 25, 2007.

[7] These fees will be charged only to Exchange members. Under a pilot program that is set to expire on July 31, 2007, these fees will also be charged to Linkage Orders (as defined in ISE Rule 1900). *See* Securities Exchange Act Release No. 54204 (July 25, 2006), 71 FR 43548 (August 1, 2006) (SR–ISE–2006–38).

[8] ''Public Customer Order'' is defined in ISE Rule 100(a)(39) as an order for the account of a Public Customer. ''Public Customer'' is defined in ISE Rule 100(a)(38) as a person that is not a broker or dealer in securities.

[9] The execution fee is currently between $.21 and $.12 per contract side, depending on the Exchange Average Daily Volume, and the comparison fee is currently $.03 per contract side.

[10] 15 U.S.C. 78f(b)(4).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55061A; File No. SR–NASDAQ–2006–061]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the NASDAQ Stock Market LLC To Codify Sponsored Access Rule

January 31, 2007.

Correction

In FR Document No. E7–543, beginning on page 2052 for Wednesday, January 17, 2007, the first paragraph is revised to read as follows:

''Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 20, 2006, The NASDAQ Stock Market LLC (''Nasdaq'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Nasdaq. Nasdaq filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.''

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–1951 Filed 2–6–07; 8:45 am]

BILLING CODE 8010–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b-4(f)(6).

[5] 17 CFR 200.30(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55210; File No. SR–NYSE–2007–08]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adopt New Rule 15B(T) Relating to Intermarket Sweep Orders

January 31, 2007.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on January 26, 2007, the New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II, which Items have been substantially prepared by the Exchange. NYSE has designated the proposed rule change as constituting a ''non-controversial'' rule change under Section 19(b)(3)(A) of the Act [4] and Rule 19b–4(f)(6) thereunder,[5] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to adopt NYSE Rule 15B(T), a temporary rule which describes the obligations of Exchange member organizations when sending Intermarket Sweep Orders (''ISOs'') to the Exchange prior to the Trading Phase Date of Regulation NMS (''Reg. NMS''). The text of the proposed rule change is available at NYSE, the Commission's Public Reference Room, and *http://www.nyse.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

As part of its rollout of the Hybrid Market,SM the Exchange is set to begin implementation of Phase IV, which includes changes necessary for NYSE's compliance with Reg. NMS. Specifically, the Phase IV software will include the acceptance of ISOs and non-routing immediate-or-cancel orders (''Reg. NMS IOCs''), auto-routing to 100-share quotations, and implementation of new locking and crossing rules approved by the Commission. The Phase IV rollout will occur in a controlled manner through the Trading Phase Date, March 5, 2007.[6] Following an initial successful period of trading, the Exchange will deploy the Phase IV software on an accelerated basis, providing notice to members and member organizations of the timing for each group of securities migrating to Phase IV.

The Exchange seeks to amend its rules to require member organizations that send ISOs to the Exchange prior to the Trading Phase Date of Reg. NMS to simultaneously send an ISO (or comparable order) for the full displayed size of the top of the book of every other ITS participant displaying a better-priced quotation. This temporary rule is intended to mirror the requirement, which will be operative after the Trading Phase Date, that all incoming ISOs meet the requirements as described in Rule 600(b)(30) of Reg. NMS,[7] and is designed to ensure that member organizations honor better-priced quotes of other ITS participants when submitting ISOs to the Exchange prior to the Trading Phase Date.[8] The NYSE expects that this temporary rule will be in effect only until the Trading Phase Date, at which time it will be deleted from its rulebook.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

[6] *See* Securities Exchange Act Release No. 55160 (January 24, 2007), available at *http://www.sec.gov/rules/final/2007/34–55160.pdf* (extending the Trading Phase Date until March 5, 2007).

[7] 17 CFR 242.600(b)(30).

[8] *See* Telephone call between Craig Hammond, Managing Director, NYSE, and Richard Holley III, Special Counsel, Division of Market Regulation, Commission, dated January 29, 2007.

In addition, the NYSE notes that it has requested an exemption from certain provisions of the Intermarket Trading System Plan and NYSE Rule 15A to allow the NYSE to implement the Reg. NMS Compliance aspects of the Phase IV rollout prior to the Trading Phase Date.[9]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirement under Section 6(b)(5) of the Act[10] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder[12] because the proposal does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.[13] NYSE has requested that the Commission waive the 30-day operative delay and designate the proposed rule change effective immediately. The Commission hereby grants the request.[14] The Commission believes that such waiver is consistent with the protection of investors and the public interest because immediate effectiveness of the proposed rule change will assist the Exchange in its efforts to ensure that its member organizations honor better-priced quotations of other ITS participants when they send ISOs to the Exchange for execution.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[15]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2007–08 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2007–08. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2007–08 and should be submitted on or before February 28, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–1942 Filed 2–6–07; 8:45 am]

BILLING CODE 8010–01–P

[9] *See* Letter from Mary Yeager, Assistant Secretary, NYSE, to Nancy M. Morris, Secretary, Commission, dated January 26, 2007.

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] Rule 19b–4(f)(6)(iii) under the Act requires that a self-regulatory organization submit to the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. NYSE has satisfied the pre-filing requirement.

[14] For purposes only of waiving the 30-day operative delay of the proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] *See* 15 U.S.C. 78s(b)(3)(C).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55198; File No. SR–NYSE–2006–116]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Approving Proposed Rule Change Amending Annual Report Timely Filing Requirements

January 30, 2007.

I. Introduction

On December 14, 2006, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Section 802.01E of its Listed Company Manual (''Manual'') to end, as of December 31, 2007, the Exchange's discretion to continue the listing of certain companies that are twelve months late in filing their annual reports with the Commission. The proposed rule change was published for public comment in the **Federal Register** on December 28, 2006.[3] The Commission received no comment letters regarding the proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 54977 (December 20, 2006), 71 FR 78249.

change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to amend Section 802.01E of the Manual to end, as of December 31, 2007, the Exchange's discretion to continue the listing of certain companies that are twelve or more months late in filing their annual reports [4] with the Commission.

Section 802.01E of the Manual provides that if a company fails to timely file a periodic annual report with the Commission, the Exchange will monitor the company and the status of the filing. If the company fails to file the annual report within six months from the filing due date, the Exchange may, in its sole discretion, allow the company's securities to be traded for up to an additional six-month period depending on the company's specific circumstances; but in any event if the company does not file its periodic annual report by the end of the one year period (''Initial Twelve-Month Period''), the Exchange will begin suspension and delisting procedures in accordance with the procedures in Section 804.00 of the Manual.

Section 802.01E states that, in certain unique circumstances, a listed company that is delayed in filing its annual report beyond the Initial Twelve-Month Period may have a position in the market (relating to both the nature of its business and its very large publicly held market capitalization) such that its delisting from the Exchange would be significantly contrary to the national interest and the interests of public investors. In such a case, where the Exchange believes that the company remains suitable for listing given, among other factors,[5] its relative financial health and compliance with the NYSE's quantitative and qualitative listing standards, and where there is a reasonable expectation that the company will be able to resume timely filings in the future, the Exchange may forebear, at its sole discretion, from commencing suspension and delisting, notwithstanding the company's failure to file within the time periods specified in Section 802.01E of the Manual.

The Exchange has determined that it is unnecessary for the Exchange to retain the discretion to allow companies to continue to be listed beyond the Initial Twelve-Month Period after December 31, 2007. Therefore, under this proposed amendment, the Exchange's discretion to allow a company to continue to be listed beyond the Initial Twelve-Month Period set forth in Section 802.01E of the Manual shall expire on December 31, 2007. If, prior to December 31, 2007, the Exchange had determined to continue listing a company beyond the Initial Twelve-Month Period under the circumstances specified in Section 802.01E of the Manual as described above,[6] and the company fails to file its periodic annual report by December 31, 2007, suspension and delisting procedures will commence in accordance with the procedures set out in Section 804.00 of the Manual.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act [7] which requires an Exchange to have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.[8]

Specifically, the Commission believes that eliminating the Exchange's discretion to continue the listing of certain companies that are twelve months late in filing their annual reports will encourage listed companies to file any late annual reports as quickly as practicable. This should benefit the public interest and protect investors by helping to assure that investors receive up to date financial information about listed companies. Eliminating the Exchange's discretion to not commence delisting of a company past the Initial 12 Month Period ensures that companies cannot continue to trade on the Exchange for extended periods of time without making publicly available their required annual reports.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–NYSE–2006–116) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–1943 Filed 2–6–07; 8:45 am]

BILLING CODE 8010–01–P

[4] The term ''annual report'' used herein refers to the filing of Forms 10–K, 10–KSB, 20–F, 40–F or N–CSR.

[5] *See* Section 802.01E of the Manual for a complete list of the factors that the Exchange must consider when determining whether to continue listing a company beyond the Initial Twelve-Month Period.

[6] *See supra* note 5 and accompanying text.

[7] 15 U.S.C. 78f(b)(5).

[8] In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55216; File No. SR–NYSE–2006–109]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting Approval of Proposed Rule Change Relating to NYSE Regulation, Inc. Policies Regarding Exercise of Power To Fine NYSE Member Organizations and Use of Money Collected as Fines

January 31, 2007.

On December 6, 2006, the New York Stock Exchange LLC (''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] to adopt internal procedures for NYSE Regulation, Inc. (''NYSE Regulation'') to assure the proper exercise by NYSE Regulation of its power to fine member organizations of the Exchange and the proper use by NYSE Regulation of the funds so collected. The proposed rule change was published for comment in the **Federal Register** on December 29, 2006.[3] The Commission received no comments on the proposal. This order approves the proposed rule change.

The Commission has reviewed carefully the proposed rule change and finds that it is consistent with the requirements of Section 6 of the Act [4] and the rules and regulations thereunder applicable to a national securities exchange.[5] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(4) of the Act,[6] which requires that the rules of the exchange provide for the equitable allocation of reasonable dues,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 55003 (December 22, 2006), 71 FR 78497 (''Notice'').

[4] 15 U.S.C. 78f.

[5] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C 78f(b)(4).

fees, and other charges among the exchange's members and issuers and other persons using its facilities. The Commission also finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[7] which requires, among other things, that the rules of the exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change should help to increase transparency regarding the processes NYSE Regulation has in place to ensure that the power of the Exchange, through NYSE Regulation, to impose fines on its members for disciplinary violations is exercised appropriately, and particularly to guard against the possibility that fines may be assessed to respond to budgetary needs rather than to serve a disciplinary purpose.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (SR–NYSE–2006–109) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–1947 Filed 2–6–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55214; File No. SR–NYSEArca–2006–50]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to Amendments to Registration Rules of NYSE Arca Equities, Inc.

January 31, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 14, 2006, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange''), through its wholly owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities'' or ''Corporation''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Exchange filed Amendment No. 1 to the proposed rule change on January 12, 2007. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange, through its wholly owned subsidiary NYSE Arca Equities, proposes to amend certain NYSE Arca Equities Rules governing registration of employees of Equity Trading Permit (''ETP'') Holders[3] in order to clarify registration procedures and make them consistent with the procedures of other self-regulatory organizations (''SROs''). The text of the proposed rule change is available at NYSE Arca, the Commission's Public Reference Room, and *www.nysearca.com/regulation/filings.asp.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Arca Equities Rules 2.4, 2.21, and 9.27 (referred to herein as Rules 2.4, 2.21 and 9.27) in order to clarify registration procedures and ongoing compliance obligations for ETP Holders and their registered persons. Further, the Exchange proposes to amend these rules so that they are consistent with industry practices and with the operation of the Central Registration Depository (''CRD'') system maintained by the National Association of Securities Dealers, Inc. (''NASD''). The proposed rule changes are similar to the rules of other SROs.[4]

Consideration of Requests for Waivers of Examination Requirements

The Exchange proposes to amend Rule 2.4(c), which governs requests from ETP Holder applicants to waive applicable examinations requirements prescribed by the Exchange. Specifically, the Exchange proposes to add new waiver standards under which the Corporation has discretion to grant waivers so that the Exchange's practices are generally consistent with the criterion set forth in NASD Rule 1070(d) and Supplementary Material .15(1)(b) to NYSE Rule 345.

Filing of Registration Documentation with the Exchange

The Exchange proposes to amend Rule 2.21, which governs registration procedures for employees of ETP Holders. Specifically, the Exchange proposes to amend the rule to provide manual registration procedures for registration categories (*e.g.*, floor clerk) for which CRD does not provide electronic registration.[5]

Continuing Education Requirements

Currently, employees of ETP Holders who wish to initiate and maintain registration with the Corporation must follow two separate rules—Rules 2.21 and 9.27. Rule 2.21 sets forth initial registration requirements, whereas Rule 9.27 sets forth the continuing education requirements that must be satisfied to maintain registration with the Corporation.

In order to simplify compliance for employees of ETP Holders, the Exchange proposes to provide continuing registration requirements in the same rule as initial registration requirements. Specifically, the Exchange proposes to add continuing education requirements to new Rule 2.21(d) and certain definitions and clarifications with respect thereto to new Commentary .01–.06 to Rule 2.21.

The continuing education requirements in proposed new Rule 2.21(d) and related Commentary .01–.06

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* NYSE Arca Equities Rule 1.1(n).

[4] *See* NASD Rules 1070(d) and 1120(a) and (b) and New York Stock Exchange LLC (''NYSE'') Rule 345A and Supplementary Material .15(1)(b) to NYSE Rule 345.

[5] In 2005, NYSE Arca (formerly Pacific Exchange, Inc.) became a participant of the CRD system for maintenance of certain registration categories with the Exchange. As part of this implementation, applicable rules of the Exchange were amended to address filing appropriate registration documentation electronically with the CRD system for employees of ETP Holders. These amended rules, however, inadvertently omitted certain registration procedures for positions not available on the CRD system.

to Rule 2.21 are substantially similar to those contained in current Rule 9.27(c) and (d) and related Commentary .01–.06 to Rule 9.27(c) and (d), except that the Exchange has made certain clarifications so that the continuing education requirements and related definitions and clarifications are more closely aligned with NASD Rule 1120 and NYSE Rule 345A and other clean-up changes, as set forth in detail below.

Specifically, the Exchange proposes in Rule 2.21(d)(1) that the content of the Regulatory Element of the program shall be consistent with the standards set forth by the Corporation and other SROs, rather than just determined by the Corporation as is set forth in the current Rule 9.27(c). In addition, the Exchange proposes to add language in Rule 2.21(d)(2)(B)(i) providing that if an ETP Holder's analysis establishes the need for supervisory training for persons with supervisory responsibilities, such training must be included in the ETP Holder's training plan. Such language is not included in the current Rule 9.27(d)(2)(A).

The Exchange has not proposed for inclusion NASD's continuing education requirements applicable to research analysts because the Corporation does not provide for research analyst registration. Additionally, unlike current NASD Rule 1120(a)(6), the Corporation is not proposing to permit ETP Holders to self-administer the Regulatory Element of continuing education, as the Corporation does not have the resources or capability to offer an approval process or monitoring of such self-administered programs. ETP Holders will be responsible for ensuring continuing education information related to their associated persons is received by the firm in a timely manner and, as such, shall designate a person or persons to receive applicable information via electronic mail directly from the CRD system. ETP Holders will not be required to submit to the Corporation the names of such designated persons, as is required by the current NASD rule. This is based on the fact that the Corporation does not have a contact management system comparable to that of NASD.

With respect to the proposed new Commentary to Rule 2.21, the Exchange proposes to add a definition of ''registered person'' to Commentary .01 to Rule 2.21 as is currently set forth in Commentary .01 to Rule 9.27(c) and (d), except that the definition that the Exchange is proposing does not include the carve-out for ''any such person whose activities are limited solely to the transaction of business on the facilities of the Corporation with ETP Holders or registered broker-dealers.'' In addition, the Exchange proposes in Commentary .04 to Rule 2.21 to correct a mistake in the language in Commentary .04 to Rule 9.27(c) and (d) to provide that reassociated registered persons shall participate in the Regulatory Element at intervals based on their initial base date, rather than their new base date. Lastly, the Exchange proposes in Commentary .06 to Rule 2.21 to change the reference of ''any registered member who is an ETP Holder,'' which is currently in Commentary .06 to Rule 9.27(c) and (d), to ''any registered person associated with an ETP Holder'' in order to be consistent with the language of other SROs.

In connection with the addition of proposed new Rule 2.21(d) and Commentary .01–.06 to Rule 2.21 as set forth above, the Exchange proposes to delete the specific continuing education requirements in Rule 9.27(c) and (d) and the related Commentary .01–.06 to Rule 9.27(c) and (d). The purpose for deleting the continuing education requirements in Rule 9.27(c) and (d) is to avoid needless repetition and risk of inconsistencies. The Exchange proposes to include cross-reference language in Rule 9.27(c) that provides that registered persons shall follow the continuing education requirements set forth in Rule 2.21(d).

In addition, the Exchange proposes to delete current Rule 2.21(i) with respect to transition to the CRD system because registration with CRD is already provided for in Rule 2.21(a).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act[6] in general, and furthers the objectives of Section 6(b)(5)[7] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2006–50 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2006–50. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of NYSE Arca. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2006–50 and should be submitted on or before February 28, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–2000 Filed 2–6–07; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55194; File No. SR–NYSEArca–2007–11]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to NYSE Arca Marketplace Trading Sessions

January 30, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 26, 2007, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange''), through its wholly owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange filed the proposal pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to update the list in NYSE Arca Equities Rule 7.34 of securities eligible to trade in one or more, but not all three, of the Exchange's trading sessions. The securities to be added to the list are: (1) Ultra Russell 2000 ProShares; (2) Ultra SmallCap600 ProShares; (3) Short Russell 2000 ProShares; (4) Short SmallCap600 ProShares; (5) UltraShort Russell 2000 ProShares; (6) UltraShort SmallCap600 ProShares (each a ''Fund''). The shares of each Fund (''Shares'') are traded on NYSE Arca, L.L.C. (''NYSE Arca Marketplace''), the equities trading facility of NYSE Arca Equities, pursuant to unlisted trading privileges (''UTP'').

The text of the proposed rule change is available on the Exchange's Web site (*http://www.nysearca.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Arca Equities Rule 7.34 currently provides, in part, that the NYSE Arca Marketplace shall have three trading sessions each day: An Opening Session (1 a.m. Pacific Time (''PT'') to 6:30 a.m. PT), a Core Trading Session (6:30 a.m. PT to 1 p.m. PT), and a Late Trading Session (1 p.m. PT to 5 p.m. PT), and that the Core Trading Session for securities described in NYSE Arca Equities Rules 5.1(b)(13), 5.1(b)(18), 5.2(j)(3), 8.100, 8.200, 8.201, 8.202, 8.203, 8.300, and 8.400 (each, a ''Derivative Securities Product'') shall conclude at 1:15 pm PT.[5]

The Exchange also includes in NYSE Arca Equities Rule 7.34 a list of those securities which are eligible to trade in one or more, but not all three, of the Exchange's trading sessions and maintains on its Web site a list that identifies all securities traded on the NYSE Arca Marketplace that do not trade for the duration of each of the three sessions specified in NYSE Arca Equities Rule 7.34. The Exchange proposes to add the following securities to these lists: (1) Ultra Russell 2000 ProShares; (2) Ultra SmallCap600 ProShares; (3) Short Russell 2000 ProShares; (4) Short SmallCap600 ProShares; (5) UltraShort Russell 2000 ProShares; (6) UltraShort SmallCap600 ProShares.[6] These securities are traded on the NYSE Arca Marketplace pursuant to UTP and are Investment Company Units, described in Exchange Rule 5.2(j)(3).

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5),[8] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, to enhance competition, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] NYSE Arca Equities Rules 5.1(b)(13), 5.2(j)(3), 8.100, 8.200, 8.201, 8.202, 8.203, 8.300, and 8.400 relate to Unit Investment Trusts, Investment Company Units, Portfolio Depositary Receipts, Trust Issued Receipts, Commodity-Based Trust Shares, Currency Trust Shares, Commodity Index Trust Shares, Partnership Units, and Paired Trust Shares, respectively. *See* Securities Exchange Act Release No. 54997 (December 21, 2006), 71 FR 78501 (December 29, 2006) (SR–NYSEArca–2006–77) (relating to amendments to NYSE Arca Equities Rule 7.34); Securities Exchange Act Release No. 55178 (January 25, 2007) (SR–NYSEArca–2007–02) (relating to additional amendments to NYSE Arca Equities Rule 7.34).

[6] The Commission approved the trading of the Shares of the Funds on the NYSE Arca Marketplace pursuant to UTP in Securities Exchange Act Release No. 55125 (January 18, 2007), 72 FR 3462 (January 25, 2007) (SR–NYSEArca–2006–87).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10]

The Exchange has asked the Commission to waive the 30-day operative delay. The Commission believes that such waiver is consistent with the protection of investors and the public interest because the proposed rule change should provide transparency and more clarity with respect to the trading hours eligibility of certain derivative securities products and should promote consistency in the trading halts of derivative securities. The Commission notes that this filing does not change the trading hours of the Derivative Securities Products listed in Rule 7.34, but codifies trading hour sessions that have been established through other rule changes or through the use of the Exchange's generic listing standards pursuant to Rule 19b–4(e) under the Act. For these reasons, the Commission designates the proposed rule change as operative immediately.[11]

At any time within 60 days of the filing of the proposed rule change the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2007–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2007–11. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro/shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File number SR–NYSEArca–2007–11 and should be submitted by February 28, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–1938 Filed 2–6–07; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires an exchange to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission has determined to waive the five-day pre-filing notice requirement in this case.

[11] For purposes only of accelerating the operative date of this proposal, the Commission has considered the rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55215; File No. SR–NYSEArca–2006–51]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto Relating to Amendments to Registration Rules of NYSE Arca, Inc.

January 31, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 14, 2006, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the Exchange. The Exchange filed Amendment No. 1 to the proposed rule change on January 12, 2007. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend certain NYSE Arca Rules governing registration of OTP Holders[3] and employees of Option Trading Permit (''OTP'') Firms[4] in order to: (i) Clarify registration procedures and make them consistent with the procedures of other self-regulatory organizations (''SROs''), and (ii) include an additional registration category in connection with the Exchange's new options trading platform, OX.[5] The text of the proposed rule change is available at NYSE Arca, the Commission's Public Reference Room, and *www.nysearca.com/regulation/filings.asp*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* NYSE Arca Rule 1.1(q).

[4] *See* NYSE Arca Rule 1.1(r).

[5] *See* Securities Exchange Act Release No. 54238 (July 28, 2006), 71 FR 44758 (August 7, 2006) (SR–NYSEArca–2006–13).

places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Arca Rules 2.5, 2.23, 6.33, 6.34A and 9.27 (referred to herein as Rules 2.5, 2.23, 6.33, 6.34A and 9.27) in order to clarify registration procedures and ongoing compliance obligations for OTP Holders and OTP Firms and their registered persons. Further, the Exchange proposes to amend these rules so that they are consistent with industry practices and with the operation of the Central Registration Depository (''CRD'') system maintained by the National Association of Securities Dealers, Inc. (''NASD''). The proposed rule changes are similar to the rules of other SROs.[6]

Registration Category

The Exchange proposes to amend Rule 2.5(b)(10)(A) to include the registration category, Market Maker Authorized Trader,[7] for individuals who perform market making activity on behalf of an OTP Firm on the OX trading facility. This registration category is new at this time because Market Maker Authorized Traders did not exist at NYSE Arca until the adoption of the OX trading rules in July 2006.[8] These individuals will be required to maintain registration requirements similar to existing Market Makers on the Exchange.

Exceptions to Required Registration Examinations

The Exchange proposes to further amend Rule 2.5(b)(10)(A) to include certain exceptions to the registration examination requirements. Currently, similar, but not identical, exceptions are included as circumstances under which the Exchange will consider a waiver of the registration examination requirements under Rule 2.5(c), as described below. The Exchange believes that the added exceptions are clear cases when registration requirements need not apply, and does not believe that it is necessary to consider similar circumstances on a case-by-case basis as required under the waiver provisions in Rule 2.5(c).

Consideration of Requests for Waivers of Examination Requirements

The Exchange proposes to amend Rule 2.5(c), which governs requests from OTP Firm applicants to waive applicable examinations requirements prescribed by the Exchange. Specifically, the Exchange proposes to add new waiver standards under which the Exchange has discretion to grant waivers so that the Exchange's practices are generally consistent with the criterion set forth in NASD Rule 1070(d) and Supplementary Material .15(1)(b) to NYSE Rule 345 and to make other clarifications.

In connection with changing the waiver standards, the Exchange also proposes to delete the remainder of Rule 2.5(c), which sets forth specific listed instances when the Exchange will waive required examinations. The purpose for deleting this language is because the Exchange proposes: (i) Waiver standards under which the Exchange has discretion to grant waivers rather than specific listed circumstances, which is consistent with the other SROs as noted above, and (ii) to make certain of these specific instances actual exceptions to the registration examination requirements in Rule 2.5(b)(10)(A), rather than circumstances under which the Exchange will consider a waiver. As explained above, the Exchange believes that such circumstances are clear cases when registration requirements need not apply, and does not believe that it is necessary to consider such circumstances on a case-by-case basis as required under the waiver provisions in Rule 2.5(c).

Filing of Registration Documentation With the Exchange

The Exchange proposes to amend Rule 2.23, which governs registration procedures for employees of OTP Firms. Specifically, the Exchange proposes to amend the rule to provide manual registration procedures for registration categories (*e.g.*, floor clerk) for which CRD does not provide electronic registration.[9]

Continuing Education Requirements

Currently, employees of OTP Firms who wish to initiate and maintain registration with the Exchange must follow two separate rules—Rules 2.23 and 9.27. Rule 2.23 sets forth initial registration requirements, whereas Rule 9.27 sets forth the continuing education requirements that must be satisfied to maintain registration with the Exchange.

In order to simplify compliance for employees of OTP Firms, the Exchange proposes to provide continuing registration requirements in the same rule as initial registration requirements. Specifically, the Exchange proposes to add continuing education requirements to new Rule 2.23(d) and certain definitions and clarifications with respect thereto to new Commentary .01–.06 to Rule 2.23.

The continuing education requirements in proposed new Rule 2.23(d) and related Commentary .01–.06 to Rule 2.23 are substantially similar to those contained in current Rule 9.27(c) and (d) and related Commentary .01–.06 to Rule 9.27(c) and (d), except that the Exchange has made certain clarifications so that the continuing education requirements and related definitions and clarifications are more closely aligned with NASD Rule 1120 and NYSE Rule 345A and other clean-up changes, as set forth in detail below.

Specifically, the Exchange proposes in Rule 2.23(d)(1) that the content of the Regulatory Element of the program shall be consistent with the standards set forth by the Exchange and other SROs, rather than just determined by the Exchange as is set forth in the current Rule 9.27(c). In addition, the Exchange proposes to add language in Rule 2.23(d)(2)(B)(i) providing that if an OTP Firm's or an OTP Holder's analysis establishes the need for supervisory training for persons with supervisory responsibilities, such training must be included in the OTP Firm's or OTP Holder's training plan. Such language is not included in the current Rule 9.27(d)(2)(A).

The Exchange has not proposed for inclusion NASD's continuing education requirements applicable to research analysts because the Exchange does not provide for research analyst registration. Additionally, unlike current NASD Rule 1120(a)(6), the Exchange is not proposing to permit OTP Firms or OTP Holders to self-administer the Regulatory Element of continuing education, as the Exchange does not have the resources or capability to offer an approval process or monitoring of such self-administered programs. OTP Firms and OTP Holders will be

[6] *See* NASD Rules 1070(d) and 1120(a) and (b) and New York Stock Exchange LLC (''NYSE'') Rule 345A and Supplementary Material .15(1)(b) to NYSE Rule 345.

[7] *See* NYSE Arca Rule 6.1A(9).

[8] *See* note 5, *supra*.

[9] In 2005, NYSE Arca (formerly Pacific Exchange, Inc.) became a participant of the CRD system for maintenance of certain registration categories with the Exchange. As part of this implementation, applicable rules of the Exchange were amended to address filing appropriate registration documentation electronically with the CRD system for employees of ETP Holders. These amended rules, however, inadvertently omitted certain registration procedures for positions not available on the CRD system.

responsible for ensuring continuing education information related to their associated persons is received by the firm in a timely manner and, as such, shall designate a person or persons to receive applicable information via electronic mail directly from the CRD system. OTP Firms and OTP Holders will not be required to submit to the Exchange the names of such designated persons, as is required by the current NASD rule. This is based on the fact that the Exchange does not have a contact management system comparable to that of NASD.

With respect to the proposed new Commentary to Rule 2.23, the Exchange proposes to add a definition of ''registered person'' to Commentary .01 to Rule 2.23 as is currently set forth in Commentary .01 to Rule 9.27(c) and (d), except that the definition that the Exchange is proposing does not include the carve-out for ''any such person whose activities are limited solely to the transaction of business on the facilities of the Exchange,'' but rather includes a carve-out for ''such persons who are not subject to the registration requirements for traders as set forth in Rule 2.5(b)(10)(A).'' In addition, the Exchange proposes in Commentary .03 to Rule 2.23 to correct a mistake in the language in Commentary .03 to Rule 9.27(c) and (d) to provide that reassociated registered persons shall participate in the Regulatory Element at intervals based on their initial base date, rather than their new base date. Lastly, the Exchange proposes in Commentary .06 to Rule 2.23 to change the reference of ''any registered member who is an OTP Holder,'' which is currently in Commentary .06 to Rule 9.27(c) and (d), to ''any registered person who is associated with an OTP Firm or OTP Holder'' in order to be consistent with the language of other SROs.

In connection with the addition of proposed new Rule 2.23(d) and Commentary .01–.06 to Rule 2.23 as set forth above, the Exchange proposes to delete the specific continuing education requirements in Rule 9.27(c) and (d) and the related Commentary .01–.06 to Rule 9.27(c) and (d). The purpose for deleting the continuing education requirements in Rule 9.27(c) and (d) is to avoid needless repetition and risk of inconsistencies. The Exchange proposes to include cross-reference language in Rule 9.27(c) that provides that registered persons shall follow the continuing education requirements set forth in Rule 2.23(d).

In addition, the Exchange proposes to delete current Rule 2.23(i) with respect to transition to the CRD system because registration with CRD is already provided for in Rule 2.23(a).

Orientation Program for Certain Market Makers and Market Maker Authorized Traders

The Exchange proposes to amend Rules 6.33 and 6.34A(b)(2) to provide that Market Maker and Market Maker Authorized Trader applicants to the Exchange who have previously successfully completed the required examination and have been absent from registration with the Exchange in such capacity for six months or more will be required to complete an orientation program prescribed by the Exchange.

The Exchange proposes these rule changes because it believes that Market Makers and Market Maker Authorized Traders that have been absent from the Exchange for six months or more should be required to take a program to reacquaint them with the requirements of the Exchange due to the length of time that they have been absent from the Exchange.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5)[11] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2006–51 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2006–51. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of NYSE Arca. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

Number SR–NYSEArca–2006–51 and should be submitted on or before February 28, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–1999 Filed 2–6–07; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10796]

Missouri Disaster # MO–00009 Declaration of Economic Injury

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Missouri, dated 02/01/2007.

Incident: Severe Winter Storms.

Incident Period: 11/30/2006 through 12/02/2006.

EFFECTIVE DATE: 02/01/2007.

EIDL Loan Application Deadline Date: 11/01/2007.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Camden, Hickory, Morgan.

Contiguous Counties:

Missouri:

Benton, Cooper, Dallas, Laclede, Miller, Moniteau, Pettis, Polk, Pulaski, Saint Clair.

The Interest Rate is: 4.000.

The number assigned to this disaster for economic injury is 107960.

The State which received an EIDL Declaration # is Missouri.

[12] 17 CFR 200.30–3(a)(12).

(Catalog of Federal Domestic Assistance Number 59002)

Steven C. Preston,

Administrator.

[FR Doc. E7–2007 Filed 2–6–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10787]

Missouri Disaster Number MO–00008

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Missouri (FEMA–1676–DR), dated 01/15/2007.

Incident: Severe Winter Storms and Flooding.

Incident Period: 01/12/2007 through 01/22/2007.

EFFECTIVE DATE: 01/22/2007.

Physical Loan Application Deadline Date: 03/16/2007.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of MISSOURI, dated 01/15/2007, is hereby amended to establish the incident period for this disaster as beginning 01/12/2007 and continuing through 01/22/2007.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E7–2008 Filed 2–6–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of denial to waive the Nonmanufacturer Rule for Demountable Cargo Containers Manufacturing (Dry Freight Containers/Connex Boxes).

SUMMARY: The U.S. Small Business Administration (SBA) is denying a request for a waiver of the Nonmanufacturer Rule for Demountable Cargo Containers Manufacturing (Dry Freight Containers/Connex Boxes) based on our recent discovery of small business manufacturers for this class of products. Denying this waiver will require recipients of contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program to provide the products of small business manufacturers or processors on such contracts.

DATES: This notice of denial is effective February 22, 2007.

FOR FURTHER INFORMATI0N CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619–0422; by FAX at (202) 481–1788; or by e-mail at *edith.butler@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. § 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule.

The SBA regulations imposing this requirement are found at 13 CFR § 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR § 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on a six digit coding system. The coding system is the Office of Management and Budget North American Industry Classification System (NAICS).

The SBA received a request on December 7, 2006, to waive the Nonmanufacturer Rule for Demountable Cargo Containers Manufacturing (Dry Freight Containers/Connex Boxes). In

response, on December 21, 2006, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for Demountable Cargo Containers Manufacturing (Dry Freight Containers/Connex Boxes). SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products. In response to that December 21, 2006 notice, SBA received comments from small business manufacturers indicating that it has furnished this product to the Federal government. Accordingly, based on the available information, SBA has determined that there are small business manufacturers of this class of products, and, is therefore denying the class waiver of the Nonmanufacturer Rule for Demountable Cargo Containers Manufacturing (Dry Freight Containers/ Connex Boxes), NAICS 336212.

Dated: February 2, 2007.

Arthur Collins,

Acting Associate Administrator for Government Contracting.

[FR Doc. E7–2028 Filed 2–6–07; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending January 19, 2007

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2007–26980.

Date Filed: January 17, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 7, 2007.

Description: Application of Jade Cargo International Company Limited requesting a foreign air carrier permit authorizing it to engage in charter foreign air transportation of property and mail between any point or points in the People's Republic of China, on the one hand, and any point or points in the United States, on the other hand.

Docket Number: OST–1996–2016.

Date Filed: January 18, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 8, 2007.

Description: Application of Delta Air Lines, Inc. requesting renewal of its certificate authority to engage in scheduled foreign air transportation of persons, property, and mail between Atlanta, GA, and the coterminal points Sao Paulo and Rio de Janeiro, Brazil.

Docket Number: OST–2007–27019.

Date Filed: January 19, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 9, 2007.

Description: Application of Delta Air Lines, Inc. requesting (i) a certificate of public convenience and necessity to engage in scheduled foreign air transportation of persons, property, and mail between the United States and China, (ii) seven weekly frequencies for that service, and (iii) a U.S.-China designation.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E7–1995 Filed 2–6–07; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) During the Week Ending January 26, 2007

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 et. seq.). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–2007–27060.

Date Filed: January 23, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 13, 2007.

Description: Application of Zoom Airlines Limited (''Zoom'') requesting an exemption and a foreign air carrier permit authorizing Zoom to provide (1) scheduled foreign air transportation of persons, property and mail between London, England (London Gatwick Airport) and New York, NY (John F. Kennedy International Airport), and (2) charter foreign air transportation of persons, property and mail between a point(s) in the United Kingdom, on the one hand, and a point(s) in the United States, on the other, and other charter flights.

Docket Number: OST–2007–27074.

Date Filed: January 23, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 13, 2007.

Description: Application of Lynx Aviation, Inc. requesting a certificate of public convenience and necessity authorizing interstate scheduled air transportation of persons, property and mail.

Docket Number: OST–2007–27056.

Date Filed: January 22, 2007.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 12, 2007.

Description: Application of Polar Air Cargo, Inc. (''Polar'') requesting that the Department (i) disclaim jurisdiction over a proposed corporate re-organization in which Polar will be converted from a California corporation to a California limited liability company bearing the name Polar Air Cargo, LLC, and transfer its certificates of public convenience and necessity, exemptions, designations, frequency allocations and related operating authorities (the ''Authorities'') to Polar Air Worldwide, Inc. (''Polar Worldwide''), a Delaware corporation, which will continue air carrier operations under the ''Polar Air Cargo'' brand, or (ii) in the alternative, approve the transfer of the Authorities to Polar Worldwide.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E7–1996 Filed 2–6–07; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Corridors of the Future Program

AGENCY: Department of Transportation (DOT).

ACTION: Notice; announcement of proposals selected to advance to Phase 2 of the Corridors of the Future Program.

SUMMARY: The U.S. Department of Transportation (DOT) announces the selection of the Corridors of the Future (CFP) Phase 1 proposals to be advanced to Phase 2 of the CFP. Through the CFP selection process, the DOT will select up to 5 nationally significant transportation corridors in need of investment for the purpose of reducing congestion, increasing freight system reliability, and enhancing the quality of life for U.S. citizens. The DOT has identified 8 nationally significant corridors comprised of 14 CFP proposals that have the potential to alleviate congestion and provide national and regional long-term benefits to further economic growth and international trade within the corridors and across the Nation. Several of these proposals are multimodal and multi-jurisdictional in nature.

DATES: The proposals selected for Phase 2 of the CFP are invited to submit a Corridor Application. Applications must be received on or before May 25, 2007.

ADDRESSES: Proposals selected for Phase 2 should submit their Corridor Application to Mr. James D. Ray, Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Room 4213, Washington, DC 20590, or electronically to *corridorsofthefuture@dot.gov*.

FOR FURTHER INFORMATION CONTACT: Mr. Michael W. Harkins, Attorney-Advisor, (202) 366–4928 (*michael.harkins@dot.gov*), or Ms. Alla C. Shaw, Attorney-Advisor, (202) 366–1042 (*alla.shaw@dot.gov*), Federal Highway Administration, Office of the Chief Counsel, 400 Seventh Street, SW., Room 4230, Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access: An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: *http://www.archives.gov* and the Government Printing Office's Web page at: *http://www.access.gpo.gov/nara*.

Background: On September 5, 2006, the DOT published a notice in the **Federal Register** seeking applications from States, or private sector entities, interested in forming coalitions to build and manage corridors in a way that alleviates congestion on our highways, rail, or waterways (71 FR 52364). The notice outlined a two-phase submission and selection process. For Phase 1, interested parties were asked to submit proposals containing general information about the proposed corridor projects. The DOT received 38 proposals during Phase I and evaluated each proposal against the primary objectives of the CFP. The DOT established a team comprised of representatives from DOT's surface transportation administrations with expertise in the areas of finance, environment and planning, infrastructure, and operations to review the proposals. Proposals were selected to move forward to Phase 2 based on each Applicant's responsiveness to the information requested for Phase 1 and the ability of the proposed project to achieve the primary goals of the CFP, including the development of corridors with national and regional significance in the movement of freight and people, congestion reduction, and the use of innovative financing.

Based on the recommendations of the Phase 1 review team, the DOT has identified 8 major corridors comprised of 14 CFP proposals that have the potential to achieve the goals of the CFP.

The 8 corridors and 14 proposals selected for Phase 2 of the CFP are as follows:

1. Interstate 95 (I–95)

A. I–95—Submitted by the Florida, Georgia, South Carolina, North Carolina and Virginia DOTs.

B. I–95—Submitted by the Interstate 95 Corridor Coalition.

C. The Southeast Interstate 95 Corridor—Submitted by CSX Corporation.

2. Interstate 80 (I–80)

A. I–80 Nevada—Submitted by the Regional Transportation Commission, Reno, Nevada on behalf of the I–80 Coalition.

B. I–80 California—Submitted by the California DOT.

3. Interstate 15 (I–15)

A. I–15 Corridor California—Submitted by the California DOT.

B. I–15 Nevada—Submitted by the Nevada DOT.

4. Northern Tier (Interstates 80, 90, and 94)

A. Detroit/Chicago National/International Corridor of Choice (I–94) (National Freight Node and Link)—Submitted by the Michigan DOT.

B. Illiana Expressway and Freight Corridor (National Freight Node)—Submitted by the Indiana and Illinois DOTs, Northwestern Indiana Regional Planning Commission, and Chicago Metropolitan Agency for Planning.

5. Interstate 5 (I–5)

A. I–5 in the Portland, Oregon and Vancouver, Washington metropolitan area—Submitted by the Oregon and Washington State DOTs.

B. I–5 Corridor California—Submitted by the California DOT.

6. Interstate 70 (I–70) Dedicated Truck Lanes Corridor Missouri to Ohio—Submitted by the Indiana DOT in partnership with the Missouri, Illinois, and Ohio DOTs.

7. Interstate 69 (I–69)—Submitted by Arkansas State Highway and Transportation Department on behalf of the I–69 Corridor Coalition.

8. Interstate 10 (I–10)—Submitted by Wilbur Smith Associates.

The proposals selected for Phase 2 of the CFP are invited to submit a Corridor Application as described in the September 5, 2006, notice. Corridor Applications must be received on or before May 25, 2007.

Authority: 49 U.S.C. 101.

Issued on: February 1, 2007.

Maria Cino,

Deputy Secretary.

[FR Doc. E7–1979 Filed 2–6–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[Docket No: FTA–2006–23511]

Notice of Final Agency Guidance on the Eligibility of Joint Development Improvements Under Federal Transit Law

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Final Agency Guidance.

SUMMARY: This final Agency guidance describes the eligibility of ''joint development'' improvements under 49 U.S.C. 5301 *et seq.* (Federal transit law) by interpreting the definition and operation of the term ''capital project'' as defined at 49 U.S.C. 5302(a)(1)(G), and as amended by Section 3003(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). This final Agency guidance is the culmination of three notices issued by the Federal Transit Administration (FTA or Agency), the first of which appeared in the **Federal Register** on January 31, 2006. FTA intends to publish the text of this final Agency guidance as a stand-alone FTA Circular

titled The Eligibility of Joint Development Improvements under Federal Transit Law.

DATES: *Effective Date:* The effective date of this final Agency guidance is February 7, 2007.

Availability of the Final Agency Guidance and Comments: Copies of this final Agency guidance and comments and material received from the public, as well as any documents indicated in the preamble as being available in the docket, are part of docket number FTA–2006–23511. For access to the DOT docket, please go to *http://dms.dot.gov* at any time or to the Docket Management System facility, U.S. Department of Transportation, Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jayme L. Blakesley, Attorney-Advisor, Office of Chief Counsel, Federal Transit Administration, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–0304, *jayme.blakesley@dot.gov*; or Robert J. Tuccillo, Associate Administrator, Office of Budget & Policy, Federal Transit Administration, 400 Seventh Street, SW., Washington, DC 20590–0001, (202) 366–4050, *Robert.tuccillo@dot.gov.* Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION: This document is organized in the following sections:

I. Background

This final Agency guidance describes the eligibility of ''joint development'' improvements under 49 U.S.C. 5301 *et seq.* (Federal transit law). The Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005: A Legacy for Users (SAFETEA–LU) enacted certain amendments to the definition of the term ''capital project'' as used in 49 U.S.C. 5302(a)(1)(G) relating to ''joint development'' activities by recipients of Federal funds under Federal transit law. This amendment permits the Federal Transit Administration (FTA or Agency) to issue public transportation grants ''for the construction, renovation, and improvement of intercity bus and intercity rail stations and terminals,'' including the construction, renovation, and improvement of commercial revenue-producing intercity bus stations or terminals. In doing so, it modifies the underlying policy of joint development improvements, and therefore enhances the ability of FTA grantees to work with the private sector and others for purposes of joint development. To ensure maximum benefit to the people who ride public transportation, to FTA grantees that choose to sponsor joint development improvements (each, a project sponsor), and to their joint development partners, this final Agency guidance (i) Seeks to afford FTA grantees maximum flexibility within the law to work with the private sector and others for purposes of joint development, (ii) generally defers to the decisions of the project sponsor, negotiating and contracting at arm's length with third parties, to utilize federal transit funds and program income for joint development purposes, and (iii) aims to promote transit-oriented development, subject to the broad parameters set forth herein.

This final Agency guidance is the culmination of three notices issued by FTA, the first two of which appeared in the **Federal Register** on January 31, 2006, at 71 FR 5107, and March 26, 2006, at 71 FR 15513. These notices were superseded by a Notice of Proposed Agency Guidance and Request for Comments on the Eligibility of Joint Development Improvements under Federal Transit Law published by FTA on September 12, 2006, in the **Federal Register** at 71 FR 53745.

In the past, FTA has appended its guidance on the eligibility of joint development to its Circulars 5010.1, 9300.1 and 9030.1, guidance for new Major Capital Investments, Grants Management, and Formula Capital Grants, respectively. FTA has decided to consolidate these appendices into one Circular on the eligibility of joint development improvements. FTA intends to publish the text of this final Agency guidance as a stand-alone FTA Circular titled The Eligibility of Joint Development Improvements under Federal Transit Law.

FTA hereby adopts the following guidance in accordance with the procedures for notice and an opportunity for the public to comment set forth at 49 U.S.C. 5334(l) and in FTA's Notice of Final Policy Statement for Implementation of Notice and Comment Procedures for Documents Imposing ''Binding Obligations,'' as published in the **Federal Register** on June 5, 2006.

II. Final Agency Guidance on the Eligibility of Joint Development Improvements Under Federal Transit Law

This final Agency guidance describes the eligibility of ''joint development'' improvements under 49 U.S.C. 5301 *et seq.* (Federal transit law). The Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005: A Legacy for Users (SAFETEA–LU) enacted certain amendments to the definition of the term ''capital project'' as used in 49 U.S.C. 5302(a)(1)(G) relating to ''joint development'' activities by recipients of Federal transit funds. This amendment permits the Federal Transit Administration (FTA or Agency) to issue public transportation grants ''for the construction, renovation, and improvement of intercity bus and intercity rail stations and terminals,'' including the construction, renovation, and improvement of commercial revenue-producing intercity bus stations or terminals. In doing so, it modifies the underlying policy of joint development improvements, and therefore enhances the ability of FTA grantees to work with the private sector and others for purposes of joint development. To ensure maximum benefit to the people who ride public transportation, to FTA grantees that choose to sponsor joint development improvements (project sponsor), and to their joint development partners, this final Agency guidance (i) Seeks to afford FTA grantees maximum flexibility within the law to work with the private sector and others for purposes of joint development, (ii) generally defers to the decisions of the project sponsor, negotiating and contracting at arm's length with third parties, to utilize federal transit funds and program income for joint development purposes, and (iii) aims to promote transit-oriented development, subject to the broad parameters set forth herein.

Table of Contents

This final Agency guidance is organized in the following sections:

I. Eligibility Criteria

a. Definition of ''Capital Project''

Federal transit law defines a ''capital project'' for joint development as follows:

A public transportation improvement that enhances economic development or incorporates private investment, including commercial and residential development, pedestrian and bicycle access to a public transportation facility, construction, renovation, and improvement of intercity bus and intercity rail stations and terminals, and the renovation and improvement of historic transportation facilities, because the improvement enhances the effectiveness of a public transportation project and is related physically or functionally to that public transportation project, or establishes new or enhanced coordination between public transportation and other transportation, and provides a fair share of revenue for public transportation that will be used for public transportation.

49 U.S.C. 5302(a)(1)(G).

This definition establishes the following criteria for determining whether a joint development improvement is eligible for funding pursuant to a program established under Federal transit law: The public transportation improvement must (i) Enhance economic development or incorporate private investment; (ii)(a) Enhance the effectiveness of a public transportation project and relate physically or functionally to that public transportation project, or (b) establish new or enhanced coordination between public transportation and other transportation; and (iii) provide a fair share of revenue for public transportation that will be used for public transportation. In addition, a person making an agreement to occupy space in a facility under this subparagraph shall pay a reasonable share of the costs of the facility through rental payments and other means. 49 U.S.C. 5302(a)(1)(G)(i).

Joint development improvements shall be eligible for FTA funding if they satisfy the criteria set forth above, and do not fall within the exclusion detailed at 49 U.S.C. 5302(a)(1)(G)(ii), which excludes the construction of a commercial revenue-producing facility (other than an intercity bus station or terminal) or a part of a public facility not related to public transportation.

b. ''Enhances Economic Development or Incorporates Private Investment''

As noted above, it is a threshold requirement for Federal funding of a public transportation improvement as joint development that such improvement either (i) Enhance economic development or (ii) incorporate private investment.[1]

i. ''Enhances Economic Development''

This criterion requires that a joint development improvement enhance economic development. A grantee may satisfy this criterion by demonstrating that the joint development improvement will add value to privately- or publicly funded economic development activity occurring in close proximity to a public transportation facility.

ii. ''Incorporates Private Investment''

Any joint development improvement that incorporates private investment shall satisfy this criterion. Private investment need not be monetary; it may take the form of cash, real property, or other benefit to be generated initially or over the life of the joint development improvements. FTA shall not set a monetary threshold for private investment. Rather, the amount and form of private investment shall be negotiated by the parties to the joint development improvement.

c. ''Enhances the Effectiveness of a Public Transportation Project''

Any reasonable forecast of joint development impacts that enhance the effectiveness of a public transportation project shall satisfy this criterion. These impacts may include, but are not limited to, any of the following: Increased ridership, shortened travel times, and lessened or deferred transit operating or capital costs.

d. ''Related Physically or Functionally''

The disjunctive requirement of physical ''or'' functional relationship provides that a joint development improvement may be built separately from, but in functional relationship to, a public transportation project. Therefore, a joint development improvement satisfies this element if it is related physically or functionally to a public transportation project.

i. ''Physically Related''

A joint development improvement is ''physically related'' to a public transportation project if it provides a direct physical connection to public transportation services or facilities. Illustrative, but not exhaustive, examples of physical relationships include (i) Projects built within or adjacent to public transportation facilities and (ii) projects using air rights over public transportation facilities.

ii. ''Functionally Related''

A joint development improvement is ''functionally related'' to a public transportation project if by activity and use, with or without a direct physical connection, it (i) Enhances the use of, connectivity with or access to public transportation; or (ii) provides a transportation-related service (such as, but not limited to, remote baggage handling or shared ticketing) or community services (such as daycare or health care) to the public. Considerations include a reduction in travel time between the joint development project and the public transportation facility, reasonable access between the joint development project and the public transportation facility, and increased trip generation rates

[1] In accordance with the statute's use of the disjunctive ''or,'' rather than the conjunctive ''and,'' FTA shall determine that a transportation improvement satisfies the threshold requirement for funding as joint development if the transportation improvement either (i) Enhances economic development or (ii) incorporates private investment (the disjunctive), and shall not require that the transportation improvement satisfy each of (i) and (ii) (the conjunctive).

resulting from the relationship between the joint development project and the public transportation facility.

While the functional relationship test of activity and use permits the use of FTA funds for joint development improvements located outside the structural envelope of a public transportation project, and may extend across an intervening street, major thoroughfare or unrelated property, functional relationships should not extend beyond the distance most people can be expected to safely and conveniently walk to use the transit service (in certain cases, for example, within a radius of 1,500 feet around the center of the public transportation project).

e. ''Establishes New or Enhanced Coordination Between Public Transportation and Other Transportation'' [2]

Any reasonable forecast of joint development impacts that establish new or enhanced coordination between public transportation and other transportation shall satisfy this criterion. FTA shall accept any reasonably supported judgment of new or enhanced coordination from the project sponsor.

i. ''New or Enhanced Coordination''

To establish new or enhanced coordination, a joint development improvement must create or enhance the physical or functional connections between public transportation and other transportation.[3]

Examples of physical connections that establish new or enhanced coordination include, but are not limited to, proximate or shared ticket counters, termini, park-and-ride lots, taxicab bays, passenger drop-off points, waiting areas, bicycle paths and sidewalks connecting public transportation to other transportation facilities. Projects that shorten the distance between public transportation termini and other transportation shall be presumed to enhance coordination.

Examples of functional connections that establish new or enhanced coordination include, but are not limited to, shared or coordinated signage, schedules, and ticketing.

ii. ''Public Transportation''

Section 5307(a)(7) of Title 49 defines ''public transportation'' as transportation by a conveyance that provides regular and continuing general or special transportation to the public, but does not include schoolbus, charter, or intercity bus transportation or intercity passenger rail transportation provided by the entity described in chapter 243 [4] (or a successor to such entity).''

iii. ''Other Transportation''

FTA interprets the term ''other transportation,'' as used in 49 U.S.C. 5307(a)(1)(G), to mean all forms of transportation that are not public transportation, including, but not limited to, airplane, school bus, charter bus, sightseeing vehicle, intercity bus and rail, automobile, taxicab, bicycle and pedestrian transportation.

f. ''Provides a Fair Share of Revenue for Public Transportation That Will Be Used for Public Transportation''

The third criterion for determining whether a joint development improvement is eligible for funding pursuant to a program established under Federal transit law is that the improvement ''provides a fair share of revenue for public transportation that will be used for public transportation.'' [5] 49 U.S.C. 5302(a)(1)(G). FTA will not define the term ''fair share of revenue,'' nor will it set a monetary threshold. What is a fair share of revenue, and what form it should take,[6] shall be negotiated between the parties involved in the joint development improvement. The only requirements are: (i) That the recipient's Board of Directors (or similar governing body) determines, following reasonable investigation, that the terms and conditions of the joint development improvement (including, without limitation, the share of revenues for public transportation which shall be provided thereunder) are commercially reasonable and fair to the recipient; and (ii) that such revenue shall be used for public transportation. This enhances the ability of a public transportation provider to negotiate for financial benefits in exchange for the benefits it will convey through the joint development improvement.

g. ''Reasonable Share of the Costs of the Facility''

While not a criterion to determine eligibility, as noted above, it is nonetheless required that any ''person making an agreement to occupy space in a facility under [49 U.S.C. 5302(a)(1)(G)] shall pay a reasonable share of the costs of the facility through rental payments and other means.'' FTA shall not require a specific valuation methodology and shall accept any reasonable valuation methodology used by the grantee to determine a reasonable share of the costs of the facility.

II. Eligible Activities

Subject to the eligibility criteria detailed at section I above, joint development improvements expressly include the following:

- Commercial and residential development;
- pedestrian and bicycle access to a public transportation facility;
- construction, renovation, and improvement of intercity bus and intercity rail stations and terminals; and
- renovation and improvement of historic transportation facilities.

49 U.S.C. 5302(a)(1)(G). These and other joint development improvements will be eligible for FTA funding if they satisfy the criteria set forth above, and do not fall within the exclusion detailed at 49 U.S.C. 5302(a)(1)(G)(ii), which excludes the construction of a commercial revenue-producing facility (other than an intercity bus station or terminal) or a part of a public facility not related to public transportation.[7]

[2] Subsection (e), ''New or Enhanced Coordination,'' explains the second method for complying with a disjunctive requirement. As explained in section (I)(d) of this document, a joint development improvement may satisfy this requirement by (i) Relating physically or functionally to a public transportation project *or* (ii) establishing new or enhanced coordination between public transportation and other transportation.

[3] This requirement is similar to, but not the same as, the requirement of physical or functional relationship described at subsection (d)(i) and (ii). The two are distinct, disjunctive requirements, but they share common criteria. A project could satisfy both requirements, but need only satisfy one to qualify for funding as a joint development improvement. Visualized as such, the disjunctive requirement would appear as a Venn diagram—separate requirements with overlapping criteria.

[4] National Railroad Passenger Corporation (''Amtrak'').

[5] This criterion should not be confused with the requirement of 49 U.S.C. 5302(a)(1)(G)(i) that ''a person making an agreement to occupy space in a facility under this subparagraph shall pay a reasonable share of the costs of the facility through rental payments and other means.''

[6] For example, ''fair share of revenue'' need not be a direct payment of revenue by an intercity bus provider to a transit agency but may take the form of an increase in revenues received by a transit agency, whether in its capacity as landlord or otherwise, as a result of enhanced passenger traffic created by the service of a jointly developed facility by an intercity bus provider, provided that the transit agency and intercity bus provider together designate and report to FTA the source of such ''fair share of revenue.'' FTA grantees shall expend the ''fair share of revenue'' in accordance with the common grant rule of 49 CFR 18.1–18.52.

[7] Many aspects of commercial and residential development will be excluded by 49 U.S.C. 5302(a)(1)(G)(ii), which makes ineligible for FTA financial assistance the ''construction of a commercial revenue-producing facility (other than an intercity bus station or terminal) or a part of a public facility not related to public transportation.'' It is important to note, however, that commercial and residential development is not excluded wholesale. For example, space in an FTA-funded facility may be made available for commercial

Continued

Costs related to a joint development improvement are only eligible for Federal transit funding pursuant to a budget contained in an approved grant. FTA cannot approve funding for costs associated with a joint development improvement that are not contained in an approved grant budget. FTA Regional Administrators approve joint development proposals as part of the grant approval process.

Eligible costs for joint development improvements include, but are not limited to, the following:

a. Real Estate Acquisition, including the acquisition of real property and structures thereon; [8]

a. Demolition of Existing Structures;

b. Site Preparation;

c. Building Foundations, including substructure improvements for buildings constructed over transit facilities;

d. Utilities, including utility relocation and construction;

e. Walkways, including bicycle lanes and pedestrian connections and access links between public transportation services and related development;

f. Open Space, including site amenities and related streetscape improvements such as street furniture and landscaping;

g. Safety and Security Equipment and Facilities, including lighting, surveillance and related intelligent transportation applications;

h. Construction, renovation, and improvement of intercity bus and intercity rail stations and terminals;

i. Facilities that Incorporate Community Services, such as daycare or health care;

j. Capital Project, and Equipment, for an Intermodal Transfer Facility or Transportation Mall, including acquisition of facilities and equipment, roadbeds, tracks and bus ramps, pedestrian concourses, loading shelters, parking facilities, park-and-ride services, improvements of existing bus or rail transit terminals, stations, major transfer points, and shelters as well as other facilities directly related to the linking of public transportation facilities with other modes of transportation;

k. Furniture, Fixtures and Equipment (FFE), Transportation-related FFE are eligible costs in all cases. However, due to the exclusion of commercial revenue-producing facilities (other than an intercity bus station or terminal) and public facilities not related to public transportation at 49 U.S.C. 5302(a)(1)(G)(ii), FFE related to commercial revenue-producing facilities (other than an intercity bus station or terminal) or public facilities not related to public transportation are considered ineligible. FFE related to an intercity bus station or terminal are eligible costs;

l. Parking, including parking improvements with a public transportation justification and use or an intercity bus or intercity rail justification and use in connection with joint development; and

m. Project Development Activities, including design, engineering, construction cost estimating, environmental analysis, real estate packaging and financial projections (operating income and expenses, debt service and cash flow analysis), and negotiations to secure financing and tenants;

n. Professional Services, including reasonable and necessary costs incurred to hire professionals to prepare or perform items a through n above, or to assist the grantee in reviewing the same.

III. Ineligible Activities

a. Construction of a Commercial Revenue-Producing Facility or Part of a Public Facility Not Related to Public Transportation

Eligible costs do not include construction of commercial revenue producing facilities (other than an intercity bus station or terminal) or part of a public facility not related to public transportation.

IV. Federal Requirements

FTA's Master Agreement contains the standard terms and conditions governing the administration of a project supported with Federal assistance awarded by FTA through a grant agreement or cooperative agreement with the recipient, or supported by FTA through a Transportation Infrastructure (TIFIA) Loan, loan guarantee, or line of credit with the recipient. Not every provision of the Master Agreement will apply to every project for which FTA provides Federal assistance through a grant agreement or cooperative agreement. The type of project, the Federal laws and regulations authorizing Federal assistance for the project, and the legal status of the recipient as a State or local government, private non profit entity, or private for profit entity will determine which Federal laws, regulations, and directives apply. Federal laws, regulations, and directives that do not apply will not be enforced. The recipient shall comply with all applicable Federal laws, regulations, and directives, except to the extent that FTA determines otherwise in writing. Any violation of a Federal law, regulation, or directive applicable to the recipient or its project may result in penalties to the violating party. Applicable crosscutting requirements likely to apply to joint development improvements include, but are not limited to, the following:

a. Ground Lease or Transfer of Federally Assisted Real Estate

If the joint development improvement involves a ground lease or transfer of federally-funded real estate and there is no Federal assistance for new improvements, then the following requirements apply to the lessee or transferee and must be incorporated into the lease or the conveyance instrument:

i. language found at 49 CFR 26.7 binding the lessee or transferee not to discriminate based on race, color, national origin, or sex;

ii. language found at 49 CFR 27.7; 27.9(b) and 37 binding the lessee or transferee not to discriminate based on disability and binding the same to compliance with the Americans with Disabilities Act with regard to any improvements constructed; and

iii. language contained in FTA's Master Agreement, updated annually in October, particularly relating to conflicts of interest and debarment and suspension.

b. Federally Assisted Construction of Joint Development Improvements

If the construction of improvements is also federally assisted, then the following requirements will apply and must be incorporated into the lease or the conveyance or encumbrance instrument:

iv. Buy America—language making it clear that the steel, iron, and manufactured goods used in the joint development project are produced in the United States, as described in 49 U.S.C. 5323(j) and 49 CFR 661;

v. Planning and Environmental Analysis—language making it clear that the grantee must comply with, and the joint development project is subject to the requirements of:

1. The FHWA/FTA metropolitan and statewide planning regulations at 23 CFR 450;

2. The National Environmental Policy Act of 1969 (NEPA), as amended, 42 U.S.C. 4321 *et seq.*;

---

revenue-producing activities and for connections to revenue producing activities. Similarly, non-commercial, non-revenue-producing aspects of commercial and residential developments may be eligible for FTA financial assistance, subject to the criteria detailed at section (I).

[8] Note that certain costs in connection with real estate acquisition (such as costs associated with eminent domain and relocation assistance) shall be eligible, as provided by the respective statutes and regulations.

3. Executive Order No. 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' 59 FR 7629, Feb. 16, 1994;

4. FTA statutory requirements on environmental matters at 49 U.S.C. 5324(b); Council on Environmental Quality regulations on compliance with the NEPA, 40 CFR 1500 *et seq.*;

5. FHWA/FTA regulations, ''Environmental Impact and Related Procedures,'' 23 CFR 771;

6. Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, involving historic and archaeological preservation; Advisory Council on Historic Preservation regulations on compliance with Sec. 106, ''Protection of Historic and Cultural Properties,'' 36 CFR 800; and

7. Restrictions on the use of certain publicly owned lands and historic resources, unless the FTA makes the specific findings required by 49 U.S.C. 303.

vi. Cargo Preference—language making it clear that items imported from abroad and used in the joint development improvements were shipped predominantly on U.S.-flag ships and that the project complies with 46 CFR 381, to the extent these regulations apply to the joint development;

vii. Seismic Safety—language certifying that a structure conforms to seismic safety standards, as contained in 49 CFR 41;

viii. Energy Assessments—Language making it clear that the transferee(s) or joint developer agrees to perform a mandatory, energy assessment as prescribed by 23 CFR 771 and 42 U.S.C. 8373(b)(1) for any buildings constructed, reconstructed or modified with FTA assistance. The assessment shall be incorporated into the Environmental Impact Statement or Environmental Assessment, if the project has one; otherwise the assessment shall be provided with the application for FTA assistance;

ix. Lobbying—49 CFR 20;

x. Labor Protection—Language making it clear that the transferee or joint developer will adhere to labor protection requirements applying to Federal projects, such as Davis-Bacon—49 U.S.C. § 5333(a) and 40 U.S.C. 3141 *et seq.*, and 29 CFR 5; Copeland ''Anti-Kickback'' Act as amended, 18 U.S.C. 874 and 29 CFR 3; and Contract Work Hours and Safety Standards Act, 40 U.S.C. 3701 *et seq.,* and 29 CFR 5 and at 40 U.S.C. 3704; as well as 49 U.S.C. 5333(b) concerning protection of transit employees;

xi. Civil Rights Requirements—49 U.S.C. 5332 and DOT implementing regulations at 49 CFR 21 (effecting Title VI of the Civil Rights Act of 1964), 49 CFR 26 (participation by Disadvantaged Business Enterprises in DOT financial assistance programs) and 49 CFR 27 and 37 (respectively, nondiscrimination on the basis of disability in programs or activities receiving Federal financial assistance and transportation services for individuals with disabilities);

xii. Program Fraud—grantees agree to comply with Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 *et seq.* and 49 CFR 31. Penalties may apply for noncompliance;

xiii. Language making it clear that the level of Federal participation in the joint development improvement provides no U.S. Government obligation to third parties in the project; and

xiv. Uniform Relocation—If the federally-funded site to be improved is occupied by other than the grantee and the occupant is displaced, the transferee(s) or joint developer must comply with 42 U.S.C. 4601 *et seq.* and the regulations at 49 CFR 24.

c. National Environmental Policy Act (NEPA)

In any instance in which FTA determines that NEPA applies to the joint development improvement, the level of environmental analysis will depend upon the complexity of the project and its likely impacts. In some instances, minimal review will be necessary, in which case FTA may issue a Categorical Exclusion. Generally, however, joint development activities that portend significant environmental impacts will necessitate the preparation of an Environmental Assessment or an Environmental Impact Statement. FTA is available to provide guidance on the environmental review process. See generally the FTA Environmental Impact and Related Procedures at 23 CFR 771.

V. Real Property

Real property acquired by a grantee or subgrantee pursuant to 49 U.S.C. 5302(a)(1)(G) shall be governed by 49 U.S.C. 5334(h), as amended, and subject to the obligations and conditions set forth in 49 CFR 18.31 as amended, which require the grantee or subgrantee to request disposition instructions from FTA whenever real property is no longer needed for the originally authorized purpose.[9]

[9] FTA shall rely on the parties to joint development transactions, including, notably, transit agencies, to determine the appropriate use and disposition of real property used in joint development improvements, so long as such disposition and use complies with applicable statutes and duly promulgated regulations of FTA. For example, FTA shall no longer apply, and shall not require its grantees to apply, its administratively-derived test of ''highest and best transit use'' (or any other tests) for determining the value of real property used in FTA-funded joint development improvements, including the disposition of real property connected to a joint development improvement. In the past, FTA relied on 49 CFR 18.25(g) as its authority for requiring (and determining in its discretion) the ''highest and best transit use'' of such property. No such requirement is expressly authorized or required by 49 CFR 18.25(g), however.

VI. Applicability of Third Party Contracting Requirements

FTA's third party contracting requirements, which appear in FTA Circular 4220.1E, have limited applicability to joint development projects. As described on page 12 of Circular 4220.1E, the third-party contracting requirements must apply to the federally funded construction aspects of joint development. With regard to revenue contracts as defined in the circular, FTA will work with grantees on a case-by-case basis to craft approaches that satisfy the statutory and regulatory requirements while preserving the benefits of this innovative contracting strategy to the maximum possible extent.

If a contract between a grantee and a third party involving a joint development project is not a construction contract or a revenue contract as defined by Circular 4220.1E, then such contract is not covered by FTA's third party contracting requirements. Paragraph 7.n. of Circular 4220.1E defines ''revenue contracts'' as ''those third party contracts whose primary purpose is to either generate revenues in connection with a transit related activity or to create business opportunities utilizing an FTA funded asset.''

Revenue contracts in joint development projects that do not meet this primary purpose test are not covered by the third party contracting requirements. For example, third party contracts to manage, operate, and/or maintain intercity bus or intercity rail terminals that are part of FTA-funded joint development projects or tenancy agreements with third party intercity bus or intercity rail operators are not covered revenue contracts. The primary purpose of such contracts is to carry out the congressional intent to give grantees the flexibility to integrate intercity rail and intercity bus terminals and their related services into FTA-funded joint development projects.

Even in situations not covered by the third party contracting requirements, FTA generally favors full and open

competition. However, where the third party contracting requirements are not involved, FTA leaves it to the full discretion of the grantees to determine the appropriate extent and nature of competition, if any, for such contracts. For example, in cases involving management of intercity bus or rail terminals or tenancy agreements in those terminals, FTA recognizes that given the unique nature of the national intercity rail and bus systems, a competitive procurement process for such contracts may not be appropriate.

VII. Satisfactory Continuing Control

For purposes of this guidance and the Certificate of Compliance, ''satisfactory continuing control'' shall not mean complete operating or managerial control of a joint development facility. In determining whether ''satisfactory continuing control'' with respect to a joint development capital project is maintained, the project sponsor and FTA shall consider, as a primary factor, whether the project sponsor has the right and power to direct that such project shall be used for activities eligible for funding under Federal transit law.

VIII. Eligibility Procedures

Before becoming eligible for FTA funding, a joint development improvement must be approved by the FTA Regional Administrator, or his designee, responsible for the project sponsor's locality. Only FTA grantees may sponsor a joint development improvement. The project sponsor may submit a joint development proposal at any time. FTA approval shall be contingent upon the project sponsor certifying that the joint development improvement conforms to the criteria set forth above and that the project conforms to the requirements of the common grant rule found at 49 CFR 18.31.

There are two methods for seeking approval for a joint development project: (i) If the joint development improvement conforms to the specifics of the Certificate of Compliance, then the project sponsor may expedite FTA approval by executing the Certificate of Compliance and submitting it to FTA along with a completed Joint Development Checklist and a Joint Development Agreement; or (ii) if the joint development improvement will deviate from the specifics of the Certificate of Compliance, then the project sponsor must substitute an ''alternative certification,'' which certification shall include an explanation of compliance with 49 U.S.C. 5302(a)(1)(G) and 49 CFR 18. In all cases, the project sponsor must submit a completed Joint Development Checklist, a proposed Joint Development Agreement, and either (i) An executed Certificate of Compliance or (ii) an alternative certification. By submitting a completed Joint Development Checklist, the project sponsor shall certify that the proposed joint development improvement conforms to the criteria of 49 U.S.C. 5302(a)(1)(G) as outlined above. By signing the Certificate of Compliance, the project sponsor shall certify, among other things, that the proposed joint development improvement conforms to the requirements of 49 CFR 18.31. An alternative certification must explain compliance with 49 U.S.C. 5302(a)(1)(G) and 49 CFR 18 together with supporting documentation, in each case in form and substance satisfactory to FTA in its reasonable discretion. The FTA Regional Administrator, or his designee, shall approve all proposals that meet the criteria described herein. Like all projects funded by FTA, joint development improvements are subject to the applicable crosscutting requirements.

The Joint Development Checklist and Certificate of Compliance are attached hereto as Appendix A and B respectively.

Appendix A—Joint Development Checklist

BILLING CODE 4910–57–P

Joint Development Checklist

I. PROJECT DESCRIPTION		
Project Sponsor:	**Date Submitted:**	**FTA Project Number (if known):**
Project Title:		
Project Location (Include City and Street Address):		
Name of Project Contact:	**Phone:**	**E-mail Address (if available):**
Type of Project: ☐ Commercial development ☐ Residential development ☐ Pedestrian or bicycle access to public transportation facility ☐ Construction, renovation, or improvement of intercity bus or intercity rail station or terminal ☐ Renovation or improvement of historic transportation facility ☐ Other		
Description of Project:		

II. MATERIALS SUBMITTED
☐ Joint Development Checklist
☐ Joint Development Agreement
☐ Certification of Compliance **or**
☐ Alternative Certification (with written explanation)

III. APPLICATION OF STATUTORY CRITERIA	
Requirement	**Description**
Economic Link (check (1) or (2)): ☐ **(1)** Enhances economic development **or** ☐ **(2)** Incorporates private investment	
Public Transportation Benefit (check (3) & (4), or (5)): ☐ **(3)** Enhances the effectiveness of a public transportation project **and** ☐ **(4)** Relates physically or functionally **or** ☐ **(5)** Establishes New or Enhanced Coordination Between Public Transportation and other Transportation	
Revenue for Public Transportation (check (6)): ☐ **(6)** Provides a Fair Share of Revenue for Public Transportation that will Be Used for Public Transportation	
Reasonable Share of Costs (check (7) if applicable): ☐ **(7)** Occupants to pay a reasonable share of the costs of the facility through rental payments and other means	

BILLING CODE 4910–57–C

APPENDIX B—CERTIFICATE OF COMPLIANCE:

Certificate of Compliance

Effective as of the date hereof, the undersigned hereby certifies and covenants to the Federal Transit Administration (''FTA'') as follows:

1. *Title.* Subject to the obligations and conditions set forth in 49 CFR 18.31, as amended, title to real property acquired under a grant or subgrant for FTA Project Number___, [insert project title here] (the ''Project''), shall vest in the undersigned or subgrantee thereof (collectively or individually, as the case may be, the ''Grantee'').

2. *Use.* Except as otherwise provided by Federal statutes, real property shall only be used for the originally authorized purposes (which may include Joint Development purposes that generate program income, both during and after the award period and used to support public transportation activities) as long as needed for such purposes, and that the Grantee shall not dispose of or encumber its title or other interests.

3. *Disposition.* When real property acquired with funds provided by FTA for the Project is no longer needed for the purpose originally authorized by FTA, the Grantee shall request disposition instructions from FTA and shall agree that, unless otherwise authorized by FTA, such disposition shall be made in accordance with applicable law, including without limitation 49 U.S.C. 5334(h) and 49 CFR 18.31.

4. *Federal Interest.* The Federal Government retains a Federal interest in any real property, equipment, and supplies financed with Federal assistance (''Project Property'') until, and to the extent that, the Federal Government relinquishes its Federal interest in such Project Property.

5. *Incidental Use.* Any incidental use of Project Property, as determined by FTA, shall not exceed that permitted under applicable Federal laws, regulations, and directives, including the requirements of FTA's Master Agreement.

6. *Encumbrance of Project Property.* The Grantee covenants to FTA as follows:

a. *Written Transactions.* The Grantee agrees that it will not execute any transfer of title to the Project Property or enter into an instrument legally binding on the Grantee that would encumber Federal Interest in the Project Property.

b. *Oral Transactions.* The Grantee agrees that it will not obligate itself in any manner to any third party with respect to Project Property.

7. *Notice to Joint Development Partner.* The undersigned has delivered to the Joint Development Partner a duly executed copy of this certificate, dated as of the date hereof, receipt of which has been acknowledged by the Joint Development Partner in writing to the undersigned on or before the date of execution of the Joint Development Agreement.

8. *Other Actions.* The Grantee (a) Agrees that it will not take any action that encumbers the Federal Interest in the Project Property and (b) hereby affirms that each of its representations and warranties set forth in the Master Agreement is true and correct in all material respects as of the date hereof. The Grantee agrees that nothing herein shall supersede, amend, modify or otherwise affect the provisions, terms or conditions set forth in the Master Agreement.

9. *Definitions.*

a. ''FTA'' shall have the meaning provided in the preamble of this certificate.

b. ''Grantee'' shall have the meaning provided in section (1) of this certificate.

c. ''Joint Development'' shall mean a capital project as defined by 49 U.S.C. 5302(a)(1)(G) that is eligible for funding pursuant to the terms and conditions set forth in [insert new Joint Development circular number].

d. ''Joint Development Partner'' shall mean the entity with which the Project Sponsor has partnered, through a Joint Development Agreement, to construct a joint development improvement pursuant to 49 U.S.C. 5302(a)(1)(G).

e. ''Master Agreement'' shall mean that certain Master Agreement by and between FTA and the Grantee, as authorized by 49 U.S.C. 53, Title 23, United States Code (Highways), the National Capital Transportation Act of 1969, as amended, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, the Transportation Equity Act for the 21st Century, as amended, or other Federal laws that FTA administers, as the same may be lawfully revised, superseded or supplemented from time to time.

f. ''Project'' shall have the meaning provided in section (1) of this certificate.

g. ''Project Property'' shall have the meaning provided in section (4) of this certificate.

10. *No Estoppel.* The undersigned agrees that acceptance of this Certificate of Compliance by FTA shall not estop the Federal government from initiating or conducting, and shall not be used as a defense to any investigation, audit or inquiry by the Federal government following approval by FTA of the project.

III. Response to Comments Received

On September 12, 2006, FTA published in the **Federal Register** a Notice of Proposed Agency Guidance and Request for Comments on the Eligibility of Joint Development Improvements under Federal Transit Law (notice of proposed guidance) (71 FR 53745). In its notice of proposed guidance, FTA interpreted the definition and operation of the term ''capital project'' as defined at 49 U.S.C. § 5302(a)(1)(G), and as amended by Section 3003(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU). The text of FTA's notice of proposed guidance included sections on (I) Eligibility criteria, including (a) The definition of a ''capital project,'' and the criteria for determining whether a joint development improvement (b) ''enhances economic development or incorporates private investment,'' (c) ''enhances the effectiveness of a public transportation project,'' (d) is ''related physically or functionally,'' (e) ''establishes new or enhanced coordination between public transportation and other transportation,'' (f) ''provides a fair share of revenue for public transportation that will be used for public transportation,'' and (g) contributes a ''reasonable share of the costs of the facility''; (II) eligible activities; (III) ineligible activities; (IV) Federal requirements; (V) eligibility procedures; (VI) real property; (VII) the applicability of third party contracting requirements; (VIII) certificate of compliance; and (IX) satisfactory continuing control.

Fourteen parties submitted comments in response to FTA's September 12, 2006, notice of proposed guidance. FTA hereby responds to these comments by topic and in the following order: (a) Notice of Proposed Guidance Generally; (b) Definition of Capital Project; (c) Eligibility Criteria; (d) Eligible/Ineligible Activities; (e) Eligibility Procedures; (f) Real Property; (g) Third Party Contracting; (h) Certificate of Compliance; (i) Satisfactory Continuing Control; and (j) Miscellaneous.

(a) Notice of Proposed Guidance Generally

The intended purpose of FTA's notice of proposed guidance was to ensure maximum benefit to the people who ride public transportation, to FTA grantees that choose to sponsor joint development improvements (the project sponsor), and to their joint development partners by (i) Affording FTA grantees maximum flexibility within the law to work with the private sector and others for purposes of joint development, (ii) generally deferring to the decisions of the project sponsor, negotiating and contracting at arm's length with third parties, to utilize Federal Transit funds and program income for joint development purposes, and (iii) promoting transit-oriented development, subject to the broad parameters set forth therein.

FTA received fourteen general comments. Nine commenters praised FTA's notice of proposed guidance. Two commenters asked FTA to clarify the scope and purpose of its proposed guidance, particularly whether FTA intends its final guidance to supplement or replace its prior guidance. One commenter encouraged FTA to place emphasis on joint development in its New Starts rating process. Another commenter suggested that FTA view local grantees as partners and not as adversaries. One commenter stated that the proposed guidance is inconsistent with regulation inasmuch as it compares fixed facilities with rolling stock.

FTA Response: FTA is pleased by the number of commenters that support and praise its Proposed Guidance. FTA appended its past guidance on the eligibility of joint development to its Circulars 5010.1, 9300.1 and 9030.1, guidance for new Major Capital Investments, Grants Management, and Formula Capital Grants, respectively. FTA intends to publish this Final Guidance as a stand-alone circular titled ''The Eligibility of Joint Development Improvements under Federal Transit Law.'' This Final Guidance shall replace FTA's existing guidance on joint development, currently located at FTA Circulars 5010.1, 9300.1 and 9030.1. FTA is uncertain why the commenter viewed its proposed guidance as adversarial to FTA grantees, particularly since FTA's stated purpose is to afford grantees maximum

flexibility within the law to work with the private sector and others for purposes of joint development. Similarly, FTA is unsure how its guidance is inconsistent, as the commenter did not identify the inconsistent comparisons between fixed facilities and rolling stock. Rather, the commenter stated that ''FTA has nearly eliminated the ability to generate revenue from rolling stock.'' FTA is unclear how it has eliminated the grantee's ability to generate revenue from rolling stock. Moreover, the comment is beyond the scope of this guidance, which speaks to joint development improvements, not rolling stock.

(b) Definition of Capital Project

SAFETEA–LU enacted certain amendments to the definition of the term ''capital project'' as used in 49 U.S.C. 5302(a)(1)(G) relating to ''joint development'' activities by recipients of Federal funds under 49 U.S.C. 5301 *et seq.* (Federal transit law). In its notice of proposed guidance, FTA interpreted the definition and operation of these terms. Nine parties submitted comments on this topic. Seven commenters believe that FTA correctly interpreted the definition and operation of the terms ''capital project'' and ''joint development'' relating to 49 U.S.C. 5302(a)(1)(G). One commenter suggested that FTA use the statutory definition of joint development rather than attempting to create a new definition for this guidance. This same commenter asked FTA to define the term ''historic transportation properties.'' Another commenter asked FTA for clear definitions of ''joint development,'' ''joint development activity,'' ''joint development project,'' and ''joint development improvement.'' This same commenter inquired whether joint development is limited to development that includes a functionally required element of the transit facility, or encompasses development on federally assisted land, transferred by lease or sale, within walking distance of a transit stop that may only provide increased ridership for the transit agency.

FTA Response: To the commenter that suggested FTA use the statutory definition of the term ''joint development,'' FTA responds by stating that it interprets the term ''joint development'' to mean any public transportation project, improvement or enhancement eligible for Federal transit funding pursuant to 49 U.S.C. 5302(a)(1)(G), a subsection of the statutory definition of ''capital project.'' FTA's use of the term joint development in this guidance document refers to the type of capital project defined at 49 U.S.C. 5302(a)(1)(G). FTA will not define the term ''historic transportation properties'' in this final Agency guidance. For information on historic properties, FTA refers the commenter to the National Historic Preservation Act located at 16 U.S.C. 470 *et seq.* Finally, joint development improvements are not limited to development that includes a functionally required element of the transit project. Any joint development improvement must, however, satisfy the statutory criteria at 49 U.S.C. 5302(a)(1)(G) to be eligible for funding pursuant to a program established under Federal transit law. This Circular seeks to afford FTA grantees maximum flexibility within the law to work with the private sector and others for purposes of joint development, and FTA generally will defer to the decisions of the project sponsor, negotiating and contracting at arm's length with third parties, to utilize Federal transit funds and program income for joint development purposes.

(c) Eligibility Criteria

Section 5302(a)(1)(G) of Title 49 establishes the following criteria for determining whether a joint development improvement is eligible for funding pursuant to a program established under Federal transit law: The public transportation improvement must (i) Enhance economic development or incorporate private investment; (ii)(a) Enhance the effectiveness of a public transportation project and relate physically or functionally to that public transportation project, or (b) establish new or enhanced coordination between public transportation and other transportation; and (iii) provide a fair share of revenue for public transportation that will be used for public transportation. In addition, a person making an agreement to occupy space in a facility under this subparagraph shall pay a reasonable share of the costs of the facility through rental payments and other means. FTA interpreted these criteria in its notice of proposed guidance, and will respond to comments criterion-by-criterion, in the order outlined above.

(i) Enhances Economic Development or Incorporates Private Investment

In its notice of proposed guidance, FTA described the threshold requirement for Federal funding of a joint development improvement—that such improvement either enhance economic development or incorporate private investment. In accordance with the statute's use of the disjunctive ''or,'' rather than the conjunctive ''and,'' the notice of proposed guidance states that FTA shall determine that a transportation improvement satisfies the threshold requirement for funding as joint development if the transportation improvement either (i) Enhances economic development or (ii) incorporates private investment (the disjunctive), and shall not require that the transportation improvement satisfy each of (i) and (ii) (the conjunctive). FTA received three comments on this requirement, with one party offering two comments. All three comments favor FTA's description of the threshold requirement for Federal funding of a joint development improvement—that such improvement either enhance economic development or incorporate private investment. Two commenters agreed with FTA's reading of the eligibility requirements as disjunctive. The other commenter applauded FTA for not setting any monetary thresholds or providing limiting definitions of private investments.

(ii)(a) Enhances the Effectiveness of a Public Transportation Project and Relates Physically or Functionally to That Public Transportation Project

FTA received two comments on this criterion generally. Both commenters suggested that FTA specifically note in the Guidelines that if an intercity bus terminal or other facility meets the new or enhanced coordination test it does not have to meet the physically or functionally related test.

FTA received four comments on the criterion that a joint development improvement enhance the effectiveness of a public transportation project. One party agreed with FTA's determination that any reasonable forecast of joint development impacts that enhance the effectiveness of a public transportation project shall satisfy this criterion. Another party disagreed, commenting that FTA's use of the term ''reasonable'' as the standard for evaluating this criterion may lead to an inconsistent evaluation of projects. A third party recommended that FTA make clear in section I of its guidance that a project sponsor's reliance on the past results of similarly situated projects is sufficient to form the basis of a reasonable forecast of joint development impacts that enhance the effectiveness of a public transportation project shall satisfy this criterion. Another commenter asked FTA to provide an additional explanation under section I(c) that would guide FTA staff to eliminate the presumed requirement for one-to-one replacement of park and ride spaces.

FTA received ten comments on the criterion that a joint development improvement relate physically or functionally to a public transportation project. One commenter agreed that the functional relationship can be shown by activity or use, and agreed with how FTA defined these terms, but recommended that FTA specifically note in the guidance that if an intercity bus terminal or other facility meets the new or enhanced coordination test, it does not have to meet the physically or functionally related test. One commenter asked whether an intercity facility located miles away from a local transit center would satisfy this criterion; and recommended that in order for any intercity bus facility to receive Federal assistance, it should satisfy both requirements [physically and functionally related] in addition to being subject to a local grantee. This same commenter recommended that these facilities should not be separated by a major or busy street. Another commenter stated that a joint development improvement can be functionally related even if it is across a major thoroughfare or unrelated property from public transportation as long as it is within walking distance of the public transportation facility. One commenter suggested that there needs to be a strong functional relationship when there is no physical connection to a transit facility; that project sponsors should be required to commit to ensuring the functional connection by providing a clear connection for users; and that funding may be contingent upon a shuttle service connecting the joint development to a transit facility. In its notice of proposed guidance, FTA used 1500 feet around the center of a public transportation project as an example of the distance that most people can be expected to safely and conveniently walk to use the transit service. Four commenters expressed concern that

1500 feet is too short a distance, and worry that it may become the de facto limitation, despite being clearly labeled as an example. One of these commenters agreed that functional relationships should not extend beyond the distance most people can be expected to safely and conveniently walk to use the transit service.

FTA Response: FTA directs the commenters to section I(a) of this final agency guidance, which indicates that if a joint development improvement satisfies the criterion of enhancing the effectiveness of a public transportation project and relates physically or functionally to that public transportation project, it need not establish new or enhanced coordination between public transportation and other transportation. The disjunctive nature of this criterion is also apparent in the box labeled ''Public Transportation Benefit'' on the Joint Development Checklist.

FTA responds to the commenter that questioned FTA's use of the term ''reasonable'' by reminding the commenter that through this guidance FTA seeks to afford FTA grantees maximum flexibility within the law to work with the private sector and others for purposes of joint development, and generally defers to the decisions of the project sponsor, negotiating and contracting at arm's length with third parties. Successful joint development improvements necessitate this flexibility.

FTA cannot state with certainty that a project sponsor's reliance on the past results of similarly situated projects is sufficient to form the basis of a reasonable forecast of joint development impacts that enhance the effectiveness of a public transportation project shall satisfy this criterion. Although past results may not be sufficient in all cases, FTA encourages project sponsors to utilize such results when forecasting joint development impacts that enhance the effectiveness of a public transportation. Any reasonable forecast shall satisfy this criterion.

In response to the comments on the requirement that a joint development improvement be physically or functionally related to a public transportation project, FTA reemphasizes the following points, each of which is addressed in section I(d) of this final agency guidance: A joint development improvement is ''physically related'' to a public transportation project only if it provides a direct physical connection to public transportation services or facilities. A joint development improvement is ''functionally related'' to a public transportation project if by activity and use, with or without a direct physical connection, it (i) Enhances the use of, connectivity with or access to public transportation; or (ii) provides a transportation-related service or community service to the public. While the functional relationship test of activity and use permits the use of FTA funds for joint development improvements located outside the structural envelope of a public transportation project, and may extend across an intervening street, major thoroughfare or unrelated property, functional relationships should not extend beyond the distance most people can be expected to safely and conveniently walk to use the transit service (in certain cases, for example, within a radius of 1,500 feet around the center of the public transportation project). In all cases, an intercity facility located miles away from a public transportation project will not have a direct physical connection to that project because several miles is beyond the distance most people can be expected to safely and conveniently walk to use the public transportation project. FTA notes, however, that the distance most people can be expected to safely and conveniently walk to use the public transportation project may extend across an intervening street, major thoroughfare or unrelated property. FTA also notes that it intends its statement regarding the radius of 1,500 feet around the center of a public transportation project to be an example of a distance that is, in certain cases, within the distance most people can be expected to safely and conveniently walk to use transit service. It is an example, not the rule.

Regarding one-to-one replacement of park and ride spaces, FTA believes the commenter was referring to language in FTA Circular C 5010.1C that describes a joint development transfer where a transit operator transfers land from a park-and-ride lot to a developer; the developer plans to construct residential units and retail space on this land; but because the development will generate more transit trips and more non-fare revenue than the displaced parking spaces provided, the transit operator is not required to replace the parking spaces on a one-to-one basis. Although this example is not contained in this final Agency guidance, the commenter is correct—FTA does not require a grantee to replace parking spaces on a one-to-one basis if those spaces are used for joint development purposes and using them for such purposes will not reduce the number of public transportation trips to and from that station.

(b) Establishes New or Enhanced Coordination Between Public Transportation and Other Transportation

FTA received three comments on the criterion that a joint development improvement establish new or enhanced coordination between public transportation and other transportation. One commenter agreed that a public transportation improvement need only satisfy one of the criteria [(i) Enhance the effectiveness of a public transportation project and relate physically or functionally, or (ii) establish new or enhanced coordination between public transportation and other transportation]. Another commenter suggested that FTA specifically note in its guidance that if an intercity bus terminal or other facility meets the ''new or enhanced coordination'' test it does not have to meet the ''physically or functionally related'' test. One commenter identified an error in the paragraph beginning with Examples of physical connections* * *'' where the phrase ''connection public transportation to *non*-transportation facilities'' should have read ''connecting public transportation to *other* transportation facilities.''

FTA Response: FTA directs the commenter to section I(d) and footnote 2 at section I(e), which explain that a joint development improvement may satisfy this requirement by (i) Relating physically or functionally to a public transportation project *or* (ii) establishing new or enhanced coordination between public transportation and other transportation.

FTA has corrected the error noted by the commenter and changed ''non-transportation facilities'' to ''other transportation facilities.''

(iii) Fair Share of Revenue for Public Transportation That Will Be Used for Public Transportation

In its notice of proposed guidance, FTA described the third criterion for determining whether a joint development improvement is eligible for funding pursuant to a program established under Federal transit law—that the improvement provide a fair share of revenue for public transportation that will be used for public transportation. Thirteen parties commented on this criterion. Four parties agree with FTA's position that what is a fair share of revenue, and what form it should take, shall be negotiated between the parties involved in the joint development improvement. One party stated that this position is ''entirely consistent with good business practices and good stewardship.'' Another party suggested that the fair share return should not rely solely upon an estimate of ridership increases, and recommended that FTA require that the fair share of revenue take the form of a cash income revenue stream to the grantee from its joint development partner or the project. Another commenter recommended that FTA explicitly state that the revenue stream that flows to a transit agency from a joint development project is not ''program income'' for purposes of 49 CFR 18. Six parties objected to the requirement that the project sponsor obtain a written opinion of counsel or other advisor (or FTA's agreement) that the share of revenue to public transportation is fair. These commenters noted that such decisions are more appropriate when coming from a transit agency official, questioned the effectiveness of an opinion of counsel, suggested that the certification be provided by a financial or real estate professional, and believe that this requirement adds nothing to the analysis. One commenter asked FTA to clarify the term ''other advisor.''

FTA Response: As stated in this guidance document, FTA will not define the term ''fair share of revenue,'' nor will it set a monetary threshold. What is a fair share of revenue, and what form it should take shall be negotiated between the parties involved in the joint development improvement. FTA will not require that a fair share of revenue rely on ridership estimates, nor will it state that the fair share of revenue is not program income. Income generated through joint development activities is considered program income, as defined at 49 CFR 18.25, and described in Section 19 of FTA's Master Agreement, which states that an appropriate use of project property ''may include joint development purposes that generate program income, both during and after the award period and used to support public transportation activities.'' FTA Master Agreement MA(13), 10–01–2006.

Due to comments overwhelmingly opposed to language in the proposed guidance, FTA

has eliminated from this final guidance the requirement that the project sponsor obtain a written opinion of counsel or other advisor (or FTA's agreement) that the share of revenue to public transportation is fair. Instead, and consistent with the policy principles embodied in this guidance, FTA shall defer to the decision of the project sponsor, negotiating and contracting at arm's length with third parties, to determine what is a fair share of revenue. The only requirements are: (i) That the recipient's Board of Directors (or similar governing body) determines, following reasonable investigation, that the terms and conditions of the joint development improvement (including, without limitation, the share of revenues for public transportation which shall be provided thereunder) are commercially reasonable and fair to the recipient; and (ii) that such revenue shall be used for public transportation.

FTA has eliminated the term ''other advisor'' from this guidance document.

(iv) Pays a Reasonable Share of the Costs of the Facility

While not a criterion to determine eligibility of a joint development improvement, Federal transit law requires that any person making an agreement to occupy space in a facility under 49 U.S.C. 5302(a)(1)(G) shall pay a reasonable share of the costs of the facility through rental payments and other means. FTA received three comments on this requirement, with one party commenting twice. The first commenter recommended that an intercity carrier should directly compensate a local grantee for the intercity provider's incremental costs because the local taxpayers would be unfairly subsidizing a private company at the cost of regular bus service, and that ticket sales generated from intercity bus passengers should not factor into an intercity provider's reimbursement or rent. The second commenter expressed concern that this requirement may be confused with the eligibility criterion that a joint development improvement provide a fair share of revenue for public transportation that will be used for public transportation.

FTA Response: The Agency shall rely on the statutory language, which requires that any ''person making an agreement to occupy space in a facility under [49 U.S.C. 5302(a)(1)(G)] shall pay a reasonable share of the costs of the facility through rental payments and other means.''

Recognizing the concern raised by the second commenter—that an inattentive reader may confuse the phrases ''reasonable share of the costs of the facility'' and ''a fair share of revenue for public transportation''—FTA included the following statement in its notice of proposed guidance: ''This criterion should not be confused with the requirement of 49 U.S.C. § 5302(a)(1)(G)(i) that 'a person making an agreement to occupy space in a facility under this subparagraph shall pay a reasonable share of the costs of the facility through rental payments and other means.' ''

(d) Eligible/Ineligible Activities

In its notice of proposed guidance, FTA describes activities that are eligible and ineligible uses of Federal transit funds for joint development purposes. FTA received six comments on eligible and ineligible activities. Two commenters asked FTA to clarify footnote 7, which notes that space in an FTA-funded facility may be made available for certain commercial revenue-producing activities and for connections to revenue producing activities despite statutory language making ineligible for FTA financial assistance the construction of a commercial revenue-producing facility (other than an intercity bus station or terminal) or part of a public facility not related to public transportation. These commenters were concerned that by eliminating some descriptive portions of earlier drafts FTA may have inadvertently constricted local flexibility by reducing the description of ineligible activities to the construction of commercial revenue producing facilities. Two commenters noted a typographical error in the list of eligible costs—the phrase ''construction, renovation and improvement of bus and intercity rail stations and terminals'' should read ''construction, renovation and improvement of *intercity* bus and intercity rail stations and terminals.'' Five parties submitted comments on the eligibility of furniture, fixtures and equipment (FFE). Two parties commented that FFE related to an intercity bus station or terminal should not be an eligible cost. Two parties expressed the opposite conclusion. These commenters recommended that FTA add a statement that ''the furniture, fixtures and equipment of intercity bus stations and terminals are eligible costs.'' Another party recommended that only items jointly used by the grantee and intercity passengers should be eligible for FTA funding, and that FFE used solely by the intercity operator should not be eligible. Yet another commenter suggested that FTA continue its existing practice of excluding FFE for tenant activities from its capital project cost and funding calculations, regardless of whether the tenant is a daycare center, interstate transportation provider, or purely commercial tenant, and recommended that tenant activities should be required to provide all finishes necessary to take advantage of their tenancy.

FTA Response: Footnote 7 is not intended to constrict local flexibility. Rather, FTA's intention is that this guidance generally, and footnote 7 in particular, afford grantees maximum flexibility within the law to work with the private sector and others for purposes of joint development. For this reason, footnote 7 notes that FTA does not interpret the statutory language at 49 U.S.C. 5302(a)(1)(G)(ii) as excluding the use of FTA funds for joint development purposes related to commercial and residential development. For example, space in an FTA-funded facility may be made available for commercial revenue-producing activities and for connections to revenue producing activities. Similarly, non-commercial, non-revenue-producing aspects of commercial and residential developments may be eligible for FTA financial assistance, subject to the criteria detailed at section I. Moreover, section II of this final guidance states that, subject to the eligibility criteria of 49 U.S.C. 5302(a)(1)(G), joint development improvements expressly include commercial and residential development.

In response to the many comments on the eligibility of furniture, fixtures and equipment (FFE), FTA refers the commenters to the statutory language at 49 U.S.C. 5302(a)(1)(G)(ii), which excepts an intercity bus station or terminal from the exclusion of commercial revenue-producing facilities and public facilities not related to public transportation. This statutory exception requires FTA to treat intercity bus stations or terminals like public transportation-related FFE, which are eligible costs in all cases.

FTA has corrected the typographical error from section II(i) of the notice of proposed agency guidance to correspond with the statutory language at 49 CFR 5302(a)(1)(G). The language in question now reads as follows: ''construction, renovation and improvement of *intercity* bus and intercity rail stations and terminals.''

(e) Eligibility Procedures

Before becoming eligible for FTA funding, a joint development improvement must be approved by the FTA Regional Administrator, or his designee, responsible for the project sponsor's locality. In its notice of proposed guidance, FTA outlined two methods for seeking approval for a joint development project and introduced two forms to be used in the approval process—the Joint Development Checklist and Certificate of Compliance. FTA received sixteen comments on its proposed eligibility procedures, with some parties submitting multiple comments. Four commenters asked FTA to clarify its use of the term ''expedited review.'' Two commenters favor the Joint Development Checklist. One of these commenters stated that the proposed checklist will streamline the joint development approval process because it is less proscriptive than the previous iteration and allows grantees maximum flexibility to satisfy the joint development requirements. The other commenter believes that the Joint Development Checklist brings clarity to the approval process. This same commenter, however, stated that risk and uncertainty are created by requiring a partnership to commit the resources necessary to plan and design a project to the level of detail required and recommended breaking the project approval process into three stages. One party commented that the eligibility procedures outlined in FTA's proposed guidance do not provide certainty or eliminate time delays. Another commenter recommended that FTA develop a single point of focus for all that is needed to review and approve any joint development project.

FTA Response: FTA modified its eligibility procedures based, in part, on the comments summarized above. Language clarifying the methods by which FTA shall approve a joint development project can be found at section VIII of this final guidance. In summary, there are two methods for seeking approval for a joint development project: (i) If the joint development improvement conforms to the specifics of the Certificate of Compliance, then the project sponsor may expedite FTA approval by executing the Certificate of Compliance and submitting it to FTA along with a completed Joint Development Checklist and a Joint Development

Agreement; or (ii) if the joint development improvement will deviate from the specifics of the Certificate of Compliance, then the project sponsor must substitute an ''alternative certification,'' which certification shall include an explanation of compliance with 49 U.S.C. 5302(a)(1)(G) and 49 CFR 18. In all cases, the project sponsor must submit a completed Joint Development Checklist, a proposed Joint Development Agreement, and either (i) An executed Certificate of Compliance or (ii) an alternative certification.

(f) Real Property

Real property acquired by a grantee or subgrantee pursuant to 49 U.S.C. 5302(a)(1)(G) shall be governed by 49 U.S.C. 5334(h), as amended, and subject to the obligations and conditions set forth in 49 CFR 18.31, as amended, which require the grantee or subgrantee to request disposition instructions from FTA whenever real property is no longer needed for the originally authorized purpose. FTA received eleven comments on its discussion of real property. Three commenters asked FTA to clarify its discussion of 49 CFR 18.31 as it applies to property used for joint development purposes. Two commenters agree with FTA's decision to no longer apply its administratively-derived test of ''highest and best transit use'' (or any other tests) for determining the value of real property used in FTA-funded joint development improvements, including the disposition of real property connected to a joint development improvement. Five commenters expressed concern that language in FTA's proposed guidance would discourage fee simple transfers of real property acquired with federal assistance within a joint development project, and suggest that FTA add to its guidance language from the FTA Master Agreement with regard to the transfer of real property as an alternative to leasing.

Response: FTA responds to the commenters that expressed concern about 49 CFR 18.31 by explaining that part 18.31 contains property management standards applicable to all real property acquired using Federal transit funds. Real property used for joint development purposes is not exempt from the requirements of 49 CFR 18.31. This guidance document references FTA's master Agreement at section IV, Federal Requirements. Section 19 of FTA's Master Agreement sets forth FTA's requirements on the use of real property, equipment, and supplies.

(g) Third Party Contracting

In its notice of proposed guidance, FTA explains the applicability of third party contracting requirements to joint development improvements made eligible by 49 U.S.C. 5302(a)(1)(G). All three comments support FTA's explanation of these requirements.

(h) Certificate of Compliance

FTA received eight comments on its proposed Certificate of Compliance, with some parties submitting multiple comments. Two parties favor the Certificate of Compliance inasmuch as it expedites FTA's review. Another party discourages the additional requirements added when the agency self-certifies. Four parties asked that FTA modify the Certificate of Compliance to allow for the transfers envisioned in other sections of the guidance. One commenter noted that the definition of ''grantee'' refers to section (2) of the certificate rather than section (1).

FTA Response: FTA encourages the commenters that asked FTA to modify the Certificate of Compliance to note that a project sponsor may substitute an ''alternative certificate,'' which may provide for transfers other than fee simple, if the joint development improvement will deviate from the specifics of the Certificate of Compliance. A project sponsor may expedite FTA approval if the joint development improvement conforms to the Certificate of Compliance.

FTA has corrected paragraph (9)(b) of the Certificate of Compliance. It now states that ''grantee'' shall have the meaning provided in section (*1*) of this certificate.

(i) Satisfactory Continuing Control

In its notice of proposed guidance, FTA noted the applicability of the term ''satisfactory continuing control'' to this guidance and the Certificate of Compliance. FTA received ten comments on this topic. Four commenters favor the applicability of the term ''satisfactory continuing control'' outlined by FTA in its notice of proposed guidance. Six commenters asked FTA to clarify its guidance with respect to the disposition of property, including means by which a grantee may maintain satisfactory continuing control through deed restrictions or other enforceable means.

FTA Response: Please see section (f) above for a discussion on the disposition of real property.

(j) Miscellaneous

One commenter noted that footnote 5 incorrectly cited 49 U.S.C. § 5302(a)(1)(G)(*ii*) and suggested that the correct citation is 49 U.S.C. 5302(a)(1)(G)(*i*). This same commenter suggested that FTA substitute ''section (I)'' for ''section (II)'' in the first paragraph of section II and at the end of footnote 7.

FTA Response: FTA has corrected both errors in this final Agency guidance.

FTA hereby publishes the text of its final guidance on the eligibility of joint development improvements under Federal transit law.

Issued on the 1st day of February, 2007.

James S. Simpson,

Administrator.

[FR Doc. E7–1977 Filed 2–6–07; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Proposed Information Collection; Comment Request

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995. An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number. The OCC is soliciting comment concerning an extension of OMB approval of the information collection titled, ''Lending Limits—12 CFR 32.''

DATES: Comments should be submitted by April 9, 2007.

ADDRESSES: Communications Division, Office of the Comptroller of the Currency, Public Information Room, Mailstop 1–5, Attention: 1557–0221, 250 E Street, SW., Washington, DC 20219. In addition, comments may be sent by fax to (202) 874–4448, or by electronic mail to *regs.comments@occ.treas.gov*. You can inspect and photocopy the comments at the OCC's Public Information Room, 250 E Street, SW., Washington, DC 20219. You can make an appointment to inspect the comments by calling (202) 874–5043.

Additionally, you should send a copy of your comments to OCC Desk Officer, 1557–0221, by mail to U.S. Office of Management and Budget, 725 17th Street, NW., #10235, Washington, DC 20503, or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: You may request additional information from Mary Gottlieb, Clearance Officer, or Camille Dickerson, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Title: Lending Limits—12 CFR 32.

Type of Review: Extension, without revision, of a currently approved collection.

OMB Control Number: 1557–0221.

Description: 12 CFR 32.7(b) established a pilot program providing

exceptions to the lending limits for 1–4 family residential real estate loans and loans to small businesses. The exceptions benefit national banks, purchasers of real estate, and small businesses. This information collection requires national banks that want to take advantage of the exceptions to apply to OCC and receive approval before using the exceptions. The OCC needs the information to evaluate whether a bank is eligible to use the exceptions and to insure that the bank's safety and soundness will not be jeopardized.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 1,820.

Estimated Number of Responses: 1,820.

Estimated Annual Burden: 47,320 hours.

Frequency of Response: On occasion.

Comments: Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility;

(b) The accuracy of the agency's estimate of the burden of the collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: February 1, 2007.

Stuart Feldstein,

Assistant Director, Legislative and Regulatory Activities Division.

[FR Doc. E7–1945 Filed 2–6–07; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

Summary of Precedent Opinions of the General Counsel

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA) is publishing a summary of legal interpretations issued by the Department's General Counsel involving veterans' benefits under laws administered by VA. These interpretations are considered precedential by VA and will be followed by VA officials and employees in future claim matters. The summary is published to provide the public, and, in particular, veterans' benefits claimants and their representatives, with notice of VA's interpretation regarding the legal matter at issue.

FOR FURTHER INFORMATION CONTACT: Susan P. Sokoll, Law Librarian, Department of Veterans Affairs, 810 Vermont Avenue, NW. (026H), Washington, DC 20420, (202) 273–6558.

SUPPLEMENTARY INFORMATION: VA regulations at 38 CFR 2.6(e)(8) and 14.507 authorize the Department's General Counsel to issue written legal opinions having precedential effect in adjudications and appeals involving veterans' benefits under laws administered by VA. The General Counsel's interpretations on legal matters, contained in such opinions, are conclusive as to all VA officials and employees not only in the matter at issue but also in future adjudications and appeals, in the absence of a change in controlling statute or regulation or a superseding written legal opinion of the General Counsel.

VA publishes summaries of such opinions in order to provide the public with notice of those interpretations of the General Counsel that must be followed in future benefit matters and to assist veterans' benefits claimants and their representatives in the prosecution of benefit claims. The full text of such opinions, with personal identifiers deleted, may be obtained by contacting the VA official named above or by accessing the opinions on the internet at *http://www1.va.gov/OGC/*.

VAOPGCPREC 10–2004

Questions Presented

A. In general, what impact does a veteran's return to active duty have on a pending claim for benefits? What is the status of the veteran's claim? What actions should or may the Department of Veterans Affairs (VA) take?

B. When a veteran's claim has been remanded to a regional office for an examination and the veteran is not available for the examination because of the veteran's return to active duty, what is the status of the veteran's claim? What actions should or may VA take?

C. When a veteran with a pending claim returns to active duty and is able to attend a scheduled examination while on active duty, what is the status of the veteran's claim? What actions should or may VA take?

D. If a veteran with a pending claim returns to active duty and dies while on active duty, what is the effect of the pending claim on a subsequent claim for accrued benefits?

Held

A. A veteran's return to active duty while his or her claim for benefits from the Department of Veterans Affairs (VA) is pending does not alter the rights and duties of the claimant and VA under any statute or regulation with respect to the development and adjudication of the claim or the status of the claim within the meaning of any statute or regulation. VA should process the claims of such veterans in the same fashion as it would had the veterans not returned to active duty. If a veteran's return to active duty temporarily prevents VA from providing a necessary medical examination or taking other action necessary to a proper decision on the claim, VA may suspend or defer action on the claim until the necessary actions can be accomplished. VA may not deny a claim solely because the veteran has returned to active duty or solely because the veteran is temporarily unavailable for a necessary examination due to his or her return to active duty.

B. When a veteran's claim has been remanded to a regional office for an examination and the veteran is not available for the examination because of the veteran's return to active duty, VA may defer action on the claim until the required examination can be conducted. VA may not deny the claim solely because the veteran is temporarily unavailable for examination due to his or her return to active duty. The veteran's return to active duty does not alter the status of the veteran's claim within the meaning of any statute or regulation.

C. When a veteran has a pending claim and returns to active duty, but is able to attend a VA examination while on active duty, VA should process the claim in the same manner as it would if the veteran had not returned to active duty. The veteran's return to active duty does not alter the status of the veteran's claim within the meaning of any statute or regulation.

D. If a veteran with a pending claim returns to active duty and dies on active duty before the claim is decided, the pending claim may provide the basis for an award of accrued benefits to a survivor under 38 U.S.C. 5121(a). Accrued benefits consist only of amounts ''due and unpaid'' to the deceased beneficiary. Because 38 U.S.C. 5304(c) prohibits VA from paying

compensation or pension to a veteran for any period in which the veteran received active service pay, accrued benefits under 38 U.S.C. 5121(a) may not include compensation and pension amounts for any period for which the veteran received active service pay.

Effective Date: September 21, 2004.

VAOPGCPREC 1–2005

Question Presented

Does the Veterans Claims Assistance Act of 2000 (VCAA) apply to claims by states regarding the construction, recognition, and payment of per diem to State homes?

Held

The provisions of the VCAA requiring VA to provide notice of any information or any medical or lay evidence necessary to substantiate the claim, and the duty to assist a claimant in obtaining evidence necessary to substantiate a claim, are not applicable to a claim by a state regarding State home construction, recognition, and payment of per diem.

Effective Date: February 9, 2005.

VAOPGCPREC 2–2005

Question Presented

Does the tax exemption provided to beneficiaries of the Department of Veterans Affairs' (VA) Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) programs under 38 U.S.C. 1970(g) apply to the Federal tax on generation-skipping transfers (GST) imposed by chapter 13 of title 26, United States Code?

Held

Under 38 U.S.C. 1970(g), Servicemembers' Group Life Insurance and Veterans Group Life Insurance proceeds that are to be paid directly to a beneficiary who is more than one generation below the insured are exempt from the Federal tax on generation-skipping transfers imposed by chapter 13 of title 26, United States Code.

Effective Date: February 9, 2005.

VAOPGCPREC 3–2005

Question Presented

When does the sixty-first day of incarceration occur pursuant to 38 U.S.C. 5313(a) and 1505(a) when a veteran is given credit for time served prior to conviction or prior to sentencing for a felony, or, for purposes of section 1505(a), a misdemeanor?

Held

The provisions of 38 U.S.C. 5313(a) and 1505(a) do not apply until all of the following requirements of the statutes have been satisfied: (1) Incarceration (imprisonment); (2) in a Federal, State, or local penal institution; (3) in excess of sixty days; and (4) for (as a result of) conviction of a felony (or a misdemeanor under section 1505(a)). For purposes of these statutes, when a veteran is incarcerated for conviction for a felony, or, for purposes of section 1505(a), a misdemeanor, the sixty-first day of incarceration cannot occur until sixty-one days after guilt is pronounced by a judge or jury and the veteran is incarcerated in a penal institution because of the determination of guilt, notwithstanding that the veteran may be given credit for time served prior to those events. However, once a veteran is imprisoned or incarcerated in a penal institution because of pronouncement of guilt for a felony (or misdemeanor in the case of section 1505(a)), the period of incarceration for purposes of 38 U.S.C. 5313(a) and 1505(a) would include the period of incarceration between the date of conviction and the date of sentencing, *i.e.*, reduction of benefits could occur as of the sixty-first day after conviction.

Effective Date: February 23, 2005.

VAOPGCPREC 4–2005

Question Presented

Whether a request for equitable relief may be considered ''an administrative remedy'' as that terminology is used in section 113(b) of Public Law 106–419?

Held

A request for equitable relief, although an administrative remedy in the broad sense, does not constitute ''an administrative remedy'' as that terminology is used within the context of Public Law 106–419, § 113(b).

Effective Date: April 21, 2005.

VAOPGCPREC 5–2005

Question Presented

May the Department of Veterans Affairs award a total disability rating based on ''temporary'' individual unemployability under 38 CFR 4.16(b)?

Held

Section 4.16 of title 38, Code of Federal Regulations, authorizes the Department of Veterans Affairs to assign a total rating based on individual unemployability (TDIU rating) based upon a veteran's temporary (*i.e.*, non-permanent) inability to follow a substantially gainful occupation. However, not every period of inability to work will establish an inability to follow a substantially gainful occupation warranting a TDIU rating, because it may be possible to secure and retain employment and to earn significant income despite occasional periods of incapacity. VA must make determinations regarding ability or inability to follow a substantially gainful occupation on a case-by-case basis, taking into account such factors as the frequency and duration of periods of incapacity or time lost from work due to disability, the veteran's employment history and current employment status, and the veteran's annual income from employment, if any.

Effective Date: November 25, 2005.

VAOPGCPREC 1–2006

Question Presented

You requested our opinion regarding the proper delimiting date under 38 U.S.C. 3031 for a veteran who qualifies for education benefits under the Montgomery GI Bill (MGIB) by serving at least three years on active duty followed by at least four years in the Selected Reserve.

Held

In a case where a veteran meets the eligibility requirements for Chapter 30 MGIB education benefits under both 38 U.S.C. 3011 and 3012, the veteran has the right to claim entitlement under whichever of such sections is most advantageous to the veteran. This includes choosing to become entitled under section 3012 when that affords a later delimiting date for using those benefits pursuant to 38 U.S.C. 3031(a)(1).

Effective Date: May 21, 2006.

VAOPGCPREC 2–2006

Question Presented

Is 38 U.S.C. 6107 applicable where a fiduciary misused benefits of a Department of Veterans Affairs (VA) beneficiary before enactment of that statute if VA makes a finding of misuse after that date?

Held

Where VA makes a determination after December 10, 2004, that a fiduciary misused a beneficiary's VA benefits, 38 U.S.C. 6107 is applicable according to its terms, regardless of whether the misuse occurred before or after that date.

Effective Date: June 30, 2006.

VAOPGCPREC 3–2006

Question Presented

Does former 38 CFR 4.71a, Diagnostic Code (DC) 5285 (2003), authorize a single 10-percent additional disability

rating based on demonstrable deformity of a vertebral body, or does DC 5285 permit multiple 10-percent additional ratings for multiple deformed vertebrae?

Held

Where residuals of vertebral fracture are rated based on limited motion or muscle spasm, former 38 CFR 4.71a, Diagnostic Code (DC) 5285 (2003), authorizes no more than a single 10-percent increase for demonstrable deformity of a vertebral body or vertebral bodies in the spinal segment (cervical, dorsal, or lumbar) that is the subject of the rating. Where spine fracture residuals cause limited motion to more than one spinal segment and DC 5285 permits separate ratings for each segment, DC 5285 authorizes a 10-percent increase to the rating assigned to each segment of the spine containing at least one demonstrably deformed vertebral body.

Effective Date: June 23, 2006.

VAOPGCPREC 4–2006

Question Presented

1. Pursuant to Public Law 109–233, may the Department of Veterans Affairs (VA) provide Specially Adapted Housing (SAH) assistance to active duty service members who are temporarily residing in a home owned by a family member?

2. Does Public Law 109–233 change the one-time usage of SAH grant benefits?

Held

1. Section 101 of Public Law 109–233 does not authorize VA to provide SAH assistance authorized under 38 U.S.C. 2102A to active duty service members who are temporarily residing in a home owned by a family member.

2. Section 101 changes the one-time usage limitation on SAH grants to allow veterans to obtain up to three grants under chapter 21, title 38, United States Code, in an aggregate amount not to exceed $50,000 for veterans eligible under 38 U.S.C. 2101(a) and $10,000 under 38 U.S.C. 2101(b).

Effective Date: August 3, 2006.

VAOPGCPREC 5–2006

Question Presented

Is incarceration in a correctional facility that is owned and operated by a private corporation pursuant to a contract with a State to provide correctional facilities for the State incarceration in a ''Federal, State, or local penal institution'' within the meaning of 38 U.S.C. 5313?

Held:

Section 5313 of title 38, United States Code, limits the payment of compensation to any person who is incarcerated in a Federal, State, or local penal institution for a period greater than 60 days for conviction of a felony. Incarceration in a correctional facility owned and operated by a private corporation pursuant to a contract with a State department of corrections responsible within a State for the incarceration of convicted felons is incarceration in a State penal institution within the meaning of section 5313.

Effective Date: August 11, 2006.

VAOPGCPREC 6–2006

Question Presented

You asked us whether the tax exemption provided by 38 U.S.C. 1970(g) to payments due or to become due under the Department of Veterans Affairs Servicemembers' Group Life Insurance (SGLI) program also applies to payments under Traumatic SGLI (TSGLI).

Held:

The tax exemption provided by 38 U.S.C. 1970(g) to payments due or to become due under the Servicemembers' Group Life Insurance program also applies in the same manner to payments due or to become due under the traumatic injury protection provided by 38 U.S.C. 1980A.

Effective Date: November 25, 2006.

VAOPGCPREC 1–2007

Question Presented

Do the procedures required by 38 CFR 3.105(e) apply where a total disability rating based on individual unemployability is reinstated for a limited period on the grounds of clear and unmistakable error in the original termination of the rating?

Held:

Section 3.105(e) of title 38, Code of Federal Regulations, requires the Department of Veterans Affairs (VA) to follow specified procedures, including providing advance notice and an opportunity to present evidence and be heard, when terminating a total disability rating based on individual unemployability if the termination would result in reduction of compensation payments currently being made. However, if VA retroactively reinstates such a total disability rating on the grounds of clear and unmistakable error in the original termination of the rating, section 3.105(e) does not apply to the determination of the duration of the reinstated rating because there would be no reduction in compensation payments currently being made.

Effective Date: January 17, 2007.

Withdrawal of Previously Published Opinions of the General Counsel—VAOPGCPREC 6–93 (In Part) & VAOPGCPREC 12–94 (In Full)

We are withdrawing our opinion in VAOPGCPREC 6–93 in part, and our opinion in VAOPGCPREC 12–94 in its entirety, due to a 2002 rulemaking action that amended 38 CFR 3.1000(d)(4) and a related manual provision. VAOPGCPREC 6–93 held in part that an award of accrued benefits under 38 U.S.C. 5121(a) may be based on logical inferences from information in the file at the date of the beneficiary's death. VAOPGCPREC 12–94 clarified this holding of VAOPGCPREC 6–93 by stating that where a veteran had in the past supplied evidence of unreimbursed medical expenses that could be expected to be incurred in like manner in succeeding years, such evidence could form the basis for a determination that evidence in the file at the date of the veteran's death permitted prospective estimation of medical expenses for accrued benefits purposes, regardless of whether such expenses were deducted prospectively during the veteran's lifetime.

Effective Date: August 11, 2006.

Dated: January 31, 2007.

By direction of the Secretary.

Paul J. Hutter,

Acting General Counsel.

[FR Doc. E7–2031 Filed 2–6–07; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Wednesday,
February 7, 2007

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 61, 91 and 141

Pilot, Flight Instructor, and Pilot School Certification; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61, 91, and 141

[Docket No. FAA–2006–26661; Notice No. 06–20]

RIN 2120–AI86

Pilot, Flight Instructor, and Pilot School Certification

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to amend the training, qualification, certification, and operating requirements for pilots, flight instructors, ground instructors, and pilot schools. These changes are needed to clarify, update, and correct our existing regulations. These changes are intended to ensure that flight crewmembers have the training and qualifications to enable them to operate aircraft safely.

DATES: Send your comments to reach us on or before May 8, 2007.

ADDRESSES: You may send comments, identified by Docket Number FAA–2006–26661, using any of the following methods:

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Fax:* 1–202–493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to http://dms.dot.gov, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: To read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: John D. Lynch, Certification and General Aviation Operations Branch, AFS–810, General Aviation and Commercial Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone No. (202) 267–3844; e-mail *john.d.lynch@faa.gov*.

SUPPLEMENTARY INFORMATION:

I. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

Privacy Act: Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov*.

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal in light of the comments we receive.

If you want the FAA to acknowledge receipt of your comments on this proposal, include with your comments a pre-addressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

II. Proprietary or Confidential Business Information

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD–ROM, mark the outside of the disk or CD–ROM and also identify electronically within the disk or CD–ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access, and place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR part 7.

III. Availability of Rulemaking Documents

(1) You can get an electronic copy using the Internet by: Searching the Department of Transportation's electronic Docket Management System (DMS) Web page at *http://dms.dot.gov/search*;

(2) Visiting the FAA's Regulations and Policies Web page at: *http://www.faa.gov/regulations_policies*; or

(3) Accessing the Government Printing Office's Web page at: *http://www.gpoaccess.gov/fr/index.html*.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number, notice number, or amendment number of this rulemaking.

IV. Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, § 106 describes the authority of the FAA Administrator, including the authority to issue, rescind, and revise regulations. Subtitle VII, Aviation

Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Chapter 447—Safety Regulation. Under § 44701, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations necessary for safety. Under § 44703, the FAA issues an airman certificate to an individual when we find, after investigation, that the individual is qualified for, and physically able to perform the duties related to, the position authorized by the certificate. In this NPRM, we are proposing to amend the training, qualification, certification, and operating requirements for pilots, flight instructors, ground instructors, and pilot schools.

These changes are intended to ensure that flight crewmembers have the training and qualifications to enable them to operate aircraft safely. For this reason, the proposed changes are within the scope of our authority and are a reasonable and necessary exercise of our statutory obligations.

V. Background

On April 4, 1997, the FAA published a final rule amending the pilot and flight instructor certification, training, and experience rules of part 61, the ground instructor certification, training, and experience rules of subpart I of part 61, and the certification rules of part 141 for FAA-approved pilot schools (See 62 FR 16220). Since that time, we have determined that changes are needed to clarify and refine these regulations and address problems discovered since we issued the final rule. We also received a number of sound suggestions from the regulated community through petitions for rulemaking, industry/agency meetings, and requests for interpretation. Consequently, we are proposing revisions and making clarifications under part 61 that pertain to pilot, flight instructor, and ground instructor certification requirements. We also are proposing to make revisions to part 141 and its appendixes, which apply to FAA-approved pilot schools.

One significant proposal under this notice involves pilot and flight instructor training and qualifications for operating with night vision goggles (NVG). In February 2000, FAA Flight Standards Service personnel and an FAA Aviation Rulemaking Advisory Committee (ARAC) met in Washington, DC to discuss establishing requirements for pilot and flight instructor training and qualifications for operating with night vision goggles. The ARAC was convened because the FAA recognized the use of NVGs had increased significantly—the cost of the equipment had decreased and the equipment itself had become easier to use. Hence, the aviation community asked the FAA to standardize the equipment and the corresponding training programs. The information shared and the decisions made from the February 2000 ARAC meeting are the basis for these proposed NVG rules.

VI. Summary Table on the Proposed Changes

The table below lists the changes contained in this NPRM in order of their Code of Federal Regulations (CFR) designations. The table is organized as follows: The first column, identified as ''Proposal No.,'' refers to the paragraph number in the ''Description of Proposed Changes'' portion of this preamble where a detailed discussion of the proposed change appears. The second column gives the CFR designation of the regulation we are proposing to change. The third column, identified as ''Summary of the Proposed Changes,'' provides a brief summary of the proposed amendment.

Proposal No.	CFR designation	Summary of the proposed changes
1	§ 61.1(b)(15)	Add a definition for the term ''night vision goggles.''
2	§ 61.1(b)(14)	Add a definition for the term ''night vision goggle operations.''
3	§ 61.1(b)(2)(i)	Add the term ''current'' for the ground instructor certificate under the definition of authorized instructor.
3	§ 61.1(b)(2)(ii)	Correct the term ''current'' and add the term ''valid'' for the flight instructor certificate under the definition of authorized instructor.
3	§ 61.1(b)(5)	Add the definition of ''current'' to airman certificates, ratings, and authorizations, which would mean the pilot has met the appropriate recent flight experience requirements of part 61 for the flight operation being conducted and the pilot's medical certificate has not expired, if a medical certificate is required.
3	§ 61.1(b)(22)	Add the definition of ''valid'' for airman certificates, ratings, and authorizations, which would mean the airmen certificate, ratings, and authorizations have not been surrendered, suspended, revoked, or expired.
3	§ 61.3(a)(1)	Add the qualifier ''current and valid.''
3	§ 61.3(f)(2)(i) & (ii)	Add the qualifier ''current and valid.''
3	§ 61.3(c)	Add the qualifier ''current and valid.''
3	§ 61.3(g)(2)(i), (ii)	Add the qualifier ''current and valid.''
4	§ 61.3(j)(1)	Delete the phrase ''Except as provided in paragraph (j)(3) of this section.''
4	§ 61.3(j)(3)	Delete this provision because the dates have passed.
5	§ 61.19(b)	Extend the duration period for student pilot certificates for persons under the age of 40 years.
6	§ 61.19(b)(3)	Extend the duration period for student pilot certificates for persons seeking the glider or balloon rating to 36 calendar months.
7	§ 61.19(d)	Establish flight instructor certificates without expiration dates.
8 & 81	§ 61.19(e)	Parallel the ground instructor certificate duration with the ground instructor currency requirements in proposed § 61.217.
9	§ 61.23(a)(3)(iv)–(v)	Make minor editorial changes to the medical certificate requirements.
9	§ 61.23(a)(3)(vii)	Permit Examiners to hold only a 3rd class medical certificate as already provided for in FAA Order 8710.3D.
10	§ 61.23(b)(3)	Clarify the no medical certificate requirement for when persons are exercising the privileges of their pilot certificate when operating a balloon or a glider.
11	§ 61.23(b)(7)	Clarify the no medical certificate requirement for Examiners who are administering practical tests in a glider, balloon, flight simulator, or flight training device.
12	§ 61.23(b)(8)	Clarify the no medical certificate requirement when taking a practical test in a glider, balloon, flight simulator, or flight training device.

Proposal No.	CFR designation	Summary of the proposed changes
13	§ 61.23(b)(9)	Add a provision excusing U.S. military pilots from obtaining an FAA medical certification, provided he or she holds a current medical examination from a medical facility of the U.S. Armed Forces and the flight does not involve a flight in air transportation service under parts 121, 125, or 135 of this chapter.
14	§ 61.29(d)(3)	Delete the requirement that a person furnish their social security number.
15	§ 61.31(d)(1)	Make minor editorial change.
15	§ 61.31(d)(2)	Delete existing paragraph (d)(2).
15	§ 61.31(d)(3)	Re-designate existing paragraph (d)(3) as paragraph (d)(2).
16	§ 61.31(l)	Establish training for operating with night vision goggles.
17	§ 61.35(a)(2)(iv)	Clarify when a person must show their current residential address when making application for a knowledge test.
18	§ 61.39(b)(2)	Delete the word ''scheduled'' in front of the phrase ''U.S. military air transport operations.''
3	§ 61.39(c)(1)	Add the qualifier ''valid.''
19	§ 61.39(c)(2)	Delete the exception that an applicant does not have to receive an instructor endorsement for an additional aircraft class rating. Sections 61.39(a)(6) and 61.63(c) require an instructor endorsement.
20	§ 61.39(d) & (e)	Change the phrase ''60 calendar days'' to read ''2 calendar months'' for the training required prior to the practical test.
21	§ 61.43(a) and (b)	Clarify when single pilot performance is required on the practical test vs. permitting issuance of the ''second in command'' limitation.
22	§ 61.45(a)(2)(iii)	Define a military aircraft for the purpose of using it for a practical test.
23	§ 61.45(c)	Except gliders from the requirement that aircraft used for a practical test must have engine power controls and flight controls that are easily reached and operable in a conventional manner by both pilots.
24	§ 61.51(b)(3)(iv)	Add a provision for logging night vision goggle time.
27	§ 61.51(b)(1)(iv) § 61.51(b)(2)(v) § 61.51(b)(3)(iii)	Revise the instructions for logbook entries to include personal computer aviation training device (PCATD).
25	§ 61.51(e)(1)	Correct an omission and permit airline transport pilots (ATPs) to log pilot-in-command (PIC) flight time.
26	§ 61.51(e)(1)(iv)	Permit a pilot who is performing the duties of PIC while under the supervision of a qualified PIC to log PIC time.
27	§ 61.51(g)(4)	Clarify use of flight simulator, flight training device, PCATD to conform to current practice and require that an instructor be present to observe the session and sign the person's logbook.
28	§ 61.51(j)	Establish that an aircraft must hold an airworthiness certificate, with some exceptions, for a pilot to log flight time to meet the certificate, rating, or recent flight experience requirements under part 61.
29	§ 61.51(k)	Add the criteria and standards for logging night vision goggle time.
30	§ 61.57(c)(1)	Revise the instrument recent flight experience for maintaining instrument privileges in airplanes, powered-lifts, helicopters, and airships.
30	§ 61.57(c)(2)–(5)	Permit the use of flight simulators, flight training devices, or PCATD for performing instrument recent flight experience.
30	§ 61.57(c)(6)	Revise the instrument recent flight experience for maintaining instrument privileges in gliders.
31	§ 61.57(d)	Clarify when an instrument proficiency check must be completed to serve as the PIC under IFR or in weather conditions less than the minimums prescribed for VFR.
32	§ 61.57(f)	Add a night vision goggle recent operating experience requirement to remain PIC qualified for night vision goggle operations.
33	§ 61.57(g)	Add a night vision goggle proficiency check requirement to remain PIC qualified for night vision goggle operations.
34	§ 61.59(a)–(c)	Add clarifying language to address falsification, reproduction, alteration and incorrect statements.
35	§ 61.63	Change the title to read ''Additional aircraft ratings (other than for ratings at the airline transport pilot certificate level).''
35	§ 61.63(c)(4)	Clarify what is intended for those applicants who hold only a lighter than air (LTA)-Balloon rating and who seek an LTA-Airship rating.
35	§ 61.63(d)(5)	Add a provision in subparagraph (5) to account for aircraft not capable of instrument flight. Parallels proposed § 61.157(b)(3).
35	§ 61.63(e)	Re-designate paragraph (h) as paragraph (e). Amend the requirements for permitting use of aircraft not capable of instrument flight for a rating. Parallels proposed § 61.157(g).
35	§ 61.63(f)	Clarify that an applicant for type rating in a multiengine, single seat airplane must meet the requirements in the multi-seat version of that type airplane, or the examiner must be in a position to observe the applicant during the practical test. Parallels proposed § 61.157(h).
35	§ 61.63(g)	Clarify that an applicant for type rating in a single engine, single seat airplane may meet the requirements in a multi-seat version of that type airplane, or the examiner must be in a position to observe the applicant during the practical test. Parallels proposed § 61.157(i).
36	§ 61.64	Place the existing § 61.63(e), (f), and (g) and § 61.157(g), (h), and (i) that address the requirements for using flight simulators and flight training devices into proposed § 61.64
35	§ 61.63(h)	Re-designate paragraph (k) as paragraph (h). Clarify that certain tasks may be waived if the FAA has approved the task to be waived to parallel § 61.157(m).
36	§ 61.64(a) and (b)	Move § 61.63(e) and § 61.157(g) to proposed § 61.64. Simplify and amend the requirements and limitations for use of a flight simulator or flight training device for an airplane rating.
36	§ 61.64(a)(2)(i) & (ii)	Clarify that to use a flight simulator for training and testing for the airplane category, class, or type rating, the type rating cannot contain the supervised operating experience limitation.

Proposal No.	CFR designation	Summary of the proposed changes
36	§ 61.64(c) and (d)	Move § 61.63(f) and § 61.157(h) to proposed § 61.64. Simplify and amend the requirements and limitations for use of a flight simulator or flight training device for a helicopter rating.
36	§ 61.64(c)(2)(i) & (ii)	Clarify that to use a flight simulator for training and testing for the helicopter class or type rating, the type rating cannot contain the supervised operating experience limitation.
36	§ 61.64(e) and (f)	Move § 61.63(g) and § 61.157(i) to proposed § 61.64. Simplify and amend the requirements and limitations for use of a flight simulator or flight training device for a powered-lift rating.
36	§ 61.64(e)(2)(i) & (ii)	Clarify that to use a flight simulator for training and testing for the powered-lift category or type rating, the type rating cannot contain the supervised operating experience limitation.
37	§ 61.65(d)	Require at least 10 hours of cross-country time as PIC to be in an airplane appropriate to the instrument rating sought, so that it conforms to the ICAO requirements for instrument rating.
37	§ 61.65(e)	Require at least 10 hours of cross-country time as PIC to be in a helicopter appropriate to the instrument rating sought, so that it conforms to the ICAO requirements for instrument rating.
37	§ 61.65(f)	Require at least 10 hours of cross-country time as PIC to be in a powered-lift appropriate to the instrument rating sought, so that it conforms to the ICAO requirements for instrument rating.
37	§ 61.65(g)	Make minor changes to address the usage of flight simulator and flight training devices for the instrument rating. Re-designate paragraph (e) as paragraph (g).
38	§ 61.65(h)	Permit the use of a PCATD to be used for 10 hours of instrument time.
3	§ 61.69(a)(1)	Require tow pilots' certificates to be ''current and valid.''
39	§ 61.69(a)(4)	Correct typographical error involving the word ''or.''
40	§ 61.69(a)(6)	Increase the recent flight experience requirements for tow pilots from 12 months to 24 months.
41	§ 61.73(b)	Combine existing paragraphs (b), (c), and (d) into proposed paragraph (b). Delete the requirement that military pilots and former military pilots must be on active flying status within the past 12 months to qualify under these special rules. Delete the requirement that military pilots and former military pilots must have PIC status to qualify for pilot certification under these special rules. Also, minor editorial changes.
41	§ 61.73(c)	Delete paragraph (c). Propose that military pilots of an Armed Force of a foreign contracting State to ICAO qualify for U.S. Commercial Pilot Certificates and ratings provided they are assigned in an operational U.S. military unit for other than for flight training purposes.
41	§ 61.73(d)	Re-designate paragraph (e) as (d). Minor editorial changes.
41	§ 61.73(e)	Re-designate paragraph (f) as (e). Minor editorial changes.
41	§ 61.73(f)	Re-designate paragraph (g) as (f). Delete the phrase ''as pilot in command during the 12 calendar months before the month of application.'' Minor editorial changes.
42	§ 61.73(g)	Allow issuing flight instructor certificates and ratings to military instructor pilots who graduate from a U.S. military instructor pilot school with an instructor pilot qualification.
43	§ 61.73(h)	Clarify the evidentiary documents required to qualify military pilots for a pilot certificate and ratings under the special rules of § 61.73 for military pilots.
44	§ 61.75(a)	Require foreign pilot license to be at the level of private pilot certificate or higher to be issued a U.S. private pilot certificate. Change the requirement for the foreign pilot certificate from being ''current'' to ''valid.''
44	§ 61.75(b)	Require foreign pilot license to be at the level of private pilot certificate or higher to be issued a U.S. private pilot certificate. Change the requirement for the foreign pilot certificate from being ''current'' to ''valid.''
3	§ 61.75(b)(2)	Require foreign pilot certificates to be ''valid.''
45	§ 61.75(b)(3)	Add ''other than a U.S. student pilot certificate.''
46	§ 61.75(c)	Add the qualifier ''for private pilot privileges only'' to clarify issuance of U.S. private pilot certificates based on foreign pilot licenses.
3	§ 61.75(d)	Add the qualifier ''valid.''
47	§ 61.75(e)	Correct an error: where the rule states ''U.S. private pilot certificate,'' it should state ''U.S. pilot certificate.''
47	§ 61.75(e)(1)	Correct an error: where the rule states ''private pilot privilege,'' it should state ''pilot privileges authorized by this part and the limitations placed on that U.S. pilot certificate.''
47	§ 61.75(e)(4)	Correct an error: where the rule states ''U.S. private pilot certificate,'' it should state ''U.S. pilot certificate.''
47	§ 61.75(f)	Correct an error: where the rule states ''U.S. private pilot certificate,'' it should state ''U.S. pilot certificate'' in 2 places.
47	§ 61.75(g)	Correct an error: where the rule states ''U.S. private pilot certificate,'' it should state ''U.S. pilot certificate'' in 2 places.
48	§ 61.77(a)(2)	Clarify who can be issued a special purpose pilot authorization.
48	§ 61.77(b)(1)	Clarify the requirements for issuance of a special purpose pilot authorization.
3	§ 61.77(b)(1)	Require foreign pilot licenses to be ''current'' and ''valid.''
48	§ 61.77(b)(5)	Delete a requirement that an applicant have documentation of meeting the recent flight experience requirements of part 61 to be issued a special purpose pilot authorization.
49	§ 61.96(b)(9)	Require an applicant for a recreational pilot certificate to hold a student pilot certificate.
50	§ 61.101(e)(1)(iii)	Exclude aircraft that are certificated as rotorcraft from the 180 horsepower powerplant limitation.
51	§ 61.103(j)	Require a private pilot certificate applicant to hold a valid student pilot certificate, or a recreational pilot certificate.
52	§ 61.109(a)(5)(ii)	Change the distance on a cross-country flight for private pilot certification—single-engine airplane rating from ''at least 50 nautical miles'' to ''more than 50 nautical miles.''
52	§ 61.109(b)(5)(ii)	Change the distance on a cross-country flight for private pilot certification—multi-engine airplane rating from ''at least 50 nautical miles'' to ''more than 50 nautical miles.''
53	§ 61.109(c)(4)(ii)	Change the distance on the solo cross-country flight for private pilot certification—helicopter rating to conform to ICAO requirements. Change the distance on a cross-country flight for private pilot certification—helicopter rating from ''at least 25 nautical miles'' to read ''more than 25 nautical miles.''

Proposal No.	CFR designation	Summary of the proposed changes
54	§ 61.109(d)(5)(ii)	Change the distance on the solo cross-country flight for private pilot certification—gyroplane rating to conform to ICAO requirements. Change the distance on a cross-country flight for private pilot certification—gyroplane rating from ''at least 25 nautical miles'' to read ''more than 25 nautical miles.''
52	§ 61.109(e)(5)(ii)	Change the distance on a cross-country flight for private pilot certification—powered-lift rating from ''at least 50 nautical miles'' to ''more than 50 nautical miles.''
55	§ 61.127(b)(4)(vi)	Add ''ground reference maneuvers'' as an area of operation for commercial pilot certification—gyroplane rating.
56	§ 61.127(b)(5)(vii)	Delete ''ground reference maneuvers'' for commercial pilot certification powered lift rating.
57	§ 61.129(a)(3)(i)	Clarify the instrument training tasks required for commercial pilot certification—airplane single-engine rating by requiring training using a view-limiting device.
62	§ 61.129(a)(3)(iii)	Allow the day cross-country flight for commercial pilot certification single-engine airplane rating to be performed under visual flight rules (VFR) or instrument flight rules (IFR).
62	§ 61.129(a)(3)(iv)	Allow the cross-country flight at night time for commercial pilot certification airplane single-engine rating to be performed under VFR or IFR.
64	§ 61.129(a)(4)	Permit training to be performed solo or with an instructor onboard for commercial pilot certification—airplane single-engine rating.
58	§ 61.129(b)(3)(i)	Require instrument training tasks for commercial pilot certification airplane multiengine rating to include training using a view-limiting device.
62	§ 61.129(b)(3)(iii)	Allow the day cross-country flight for commercial pilot certification multiengine airplane rating to be performed under VFR or IFR.
62	§ 61.129(b)(3)(iv)	Allow the cross-country flight at night time for commercial pilot certification multiengine airplane rating to be performed under VFR or IFR.
62	§ 61.129(c)(3)(i)	Reduce the hour requirements on the control and maneuvering of a helicopter solely by reference to instruments from 10 hours to 5 hours for commercial pilot certification-helicopter rating and permit it to be performed in an aircraft, flight simulator, or flight training device. Clarify the control and maneuvering of a helicopter solely by reference to instruments required for commercial pilot certification for the helicopter rating must include training using a view-limiting device.
62	§ 61.129(c)(3)(ii)	Permit the day cross-country flight for commercial pilot certification—helicopter rating to be performed under VFR or IFR.
62	§ 61.129(c)(3)(iii)	Permit the cross-country flight at night time for commercial pilot certification—helicopter rating to be performed under VFR or IFR.
64	§ 61.129(c)(4)	Permit training for commercial pilot certification helicopter rating to be performed solo or with an instructor onboard.
60	§ 61.129(d)(3)(i)	Reduce the instrument training for commercial pilot certification—gyroplane rating to 2.5 hours on the control and maneuvering of a gyroplane solely by reference to instrument and permit it to be conducted in an aircraft, flight simulator, or flight training device. Clarify the control and maneuvering of a gyroplane solely by reference to instrument required for commercial pilot certification gyroplane rating must include training using a view-limiting device.
62	§ 61.129(d)(3)(ii)	Allow the day cross-country flight for commercial pilot certification gyroplane rating to be performed under VFR or IFR.
63	§ 61.129(d)(3)(iii)	Delete the requirement for a cross-country flight at night time for commercial pilot certification—gyroplane rating and establish it as ''At least two hours of flight training during night-time conditions in a gyroplane at an airport, that includes 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern).''
64	§ 61.129(d)(4)	Permit training for commercial pilot certification—gyroplane rating to be performed solo or with an instructor onboard.
61	§ 61.129(e)(3)(i)	Require that instrument training tasks for commercial pilot certification—powered-lift rating must include training using a view-limiting device.
61	§ 61.129(e)(3)(ii)	Permit the cross-country flight at night time for commercial pilot certification—powered-lift rating to be performed under VFR or IFR.
62	§ 61.129(e)(3)(iii)	Permit the cross-country flight at night time for commercial pilot certification—powered-lift rating to be performed under VFR or IFR.
64	§ 61.129(e)(4)	Permit training for commercial pilot certification—powered-lift rating to be performed solo or with an instructor onboard.
64	§ 61.129(g)(2)	Permit training for commercial pilot certification—airship rating to be performed either solo or while performing the duties of PIC with an instructor onboard.
65	§ 61.129(g)(3)	Reformat paragraph (3) into subparagraphs (i) and (ii). Clarify the instrument training tasks for commercial pilot certification—airship rating require instrument training using a view-limiting device.
62	§ 61.129(g)(4)(ii) & (iii)	Permit the cross-country training for commercial pilot certification—airship rating to be performed under VFR or IFR.
3	§ 61.133(a)(1)	Require commercial pilot certificates to be ''current and valid.''
3	§ 61.153(d)	Require pilot certificate and instrument rating to be ''valid.''
66	§ 61.153(d)(3)(i), (ii)	Further clarify the additional condition to qualify for a U.S. ATP certificate on the basis of a foreign pilot certificate.
67	§ 61.157	Reprint this section in its entirety due to many changes.
67	§ 61.157(b)	Add the language ''or a type rating that is completed concurrently with an airline transport pilot certificate'' so the rule more clearly states what is intended. Reformat this section so as to establish a paragraph (g) that permits the use of an aircraft not capable of instrument flight for a type rating to be added to an existing ATP certificate. Parallels proposed § 61.63(e).
36 & 67	§ 61.157(g)	Use of flight simulators and flight training devices and applicant qualifications for the airplane rating at the ATP certification level. Move to proposed § 61.64 as paragraph (a) and (b).

Proposal No.	CFR designation	Summary of the proposed changes
36 & 67	§ 61.157(h)	Use of flight simulators and flight training devices and applicant qualifications for the helicopter rating at the ATP certification level. Move to proposed § 61.64 as paragraph (c) and (d).
36 & 67	§ 61.157(i)	Use of flight simulators and flight training devices and applicant qualifications for the powered-lift rating at the ATP certification level. Move to proposed § 61.64 as paragraph (e) and (f).
67	§ 61.157(g)	Re-designate paragraph (j) as paragraph (g). Amends the requirements for permitting use of aircraft not capable of instrument flight for a rating to permit the issuance of a ''VFR Only'' limitation for ATP certification. Parallels proposed § 61.63(e).
68	§ 61.157(h)	Adds a provision to permit an applicant for type rating in a multiengine, single seat airplane to be performed in a multi-seat version of that type airplane, or the examiner must be in a position to observe the applicant during the practical test. Parallels proposed § 61.63(f).
69	§ 61.157(i)	Adds a provision to permit an applicant for type rating in a single engine, single seat airplane to be performed in a multi-seat version of that type airplane, or the examiner must be in a position to observe the applicant during the practical test. Parallels proposed § 61.63(g).
70	§ 61.159(c)(3)	Add a provision to accommodate the crediting of flight engineer time for U.S. military flight engineers for qualifying for an ATP certificate that is similar to what is provided for crediting flight engineer time under part 121.
71	§ 61.159(d)	Clarify when an applicant may be issued an ATP certificate with the ICAO endorsement.
71	§ 61.159(e)	Clarify a holder of an ATP certificate with the ICAO endorsement may have the endorsement removed after meeting the aeronautical experience of proposed § 61.159(d).
3	§ 61.167(a)	Require an ATP certificate to be ''valid.''
3	§ 61.167(b)(3)	Require ATP certificates be ''current and valid.''
72	§ 61.187(b)(6)(vii)	Delete the ''go around maneuver'' for flight instructor certification for the glider rating.
3	§ 61.193	Require flight instructor certificate be ''current and valid.''
73	§ 61.195(c)(1) & (2)	Establish the flight instructor qualifications for providing instrument training in flight to be a CFII in the appropriate category and class of aircraft.
74	§ 61.195(d)(3)	Delete requirement that a flight instructor must sign a student's certificate for authorizing solo flight in Class B airspace.
75	§ 61.195(k)	Add flight instructor qualifications for giving the PIC night vision goggle qualification and currency training.
3	§ 61.197(a)	Require flight instructor certificate to be ''current.''
7	§ 61.197(a)(2)	Establish flight instructor renewal procedures without requiring re-issuance of the actual certificate.
7	§ 61.199(a)	Establish flight instructor reinstatement procedures without requiring re-issuance of the actual certificate. Additionally, clarify the reinstatement requirements for a single practical test for renewal of the other ratings held.
3	§ 61.215(a), (c), (d)	Require ground instructor certificates to be ''current and valid.''
76	§ 61.215(b)	Delete the privilege of AGIs to provide training and endorsement for instrument training.
3	§ 61.215(b)	Require AGI certificates to be ''current and valid.''
77	§ 61.217(a)—(d)	Establish new currency requirements for ground instructors.
78	§ 91.205(i)	Establish the required instruments & equipment for night vision goggle operations.
79	§ 141.5(a)—(e)	Clarify that the ''counters'' for the pass rate must be 10 different people and that no one graduate can be counted more than once.
80	§ 141.9	Correct the rule language for issuing examining authority.
81	§ 141.33(d)(2)	Reduce the number of student enrollments to 10 students to qualify for a check instructor position.
82	§ 141.39	Permit the use of foreign registered aircraft for those part 141 training facilities that are located outside of the United States and where the training is conducted outside of the United States.
83	§ 141.53(c)(1)	Delete subparagraph (c)(1) to remove an obsolete date.
84	§ 141.55(e)(2)(ii)	Correct the phrase ''the practical or knowledge test, or any combination thereof'' because it should state ''the practical or knowledge test, as appropriate.''
85	§ 141.77(c)(1), (2), & (3)	Make a technical correction to the language in the rules about the proficiency and knowledge test required for transfer students to a part 141 pilot school.
86	§ 141.85(a)(1) & (d)	Clarify duties and responsibilities that chief instructor may delegate to an assistant chief instructor and recommending instructor.
87	B. 2.	Change the eligibility requirement for enrollment into the flight portion of the private pilot certification course to only require a recreational or student pilot certificate prior to entry into the solo phase of the flight portion.
88	B. 4(b)(1)(i)	In the private pilot certification—single-engine airplane course, change the training required to ''on the control and maneuvering of a single-engine airplane solely by reference to instruments'' instead of calling it ''instrument training.''
88	B. 4(b)(2)(i)	In the private pilot certification—multiengine airplane course, change the training required to ''on the control and maneuvering of a multiengine airplane solely by reference to instruments.''
88	B. 4(b)(5)(i)	In the private pilot certification—powered-lift course, change the training required to ''on the control and maneuvering of a powered-lift solely by reference to instruments.''
89	B. 5(a)(1)	Change the distance on a cross-country flight in the private pilot certification—airplane single-engine course from ''at least 50 nautical miles'' to ''more than 50 nautical miles.''
90	B. 5(b)(1)	Change the distance on a cross-country flight in the private pilot certification—airplane multiengine course from ''at least 50 nautical miles'' to ''more than 50 nautical miles.''
91	B. 5(c)(1)	Change the distance on a cross-country flight in the private pilot certification—helicopter course to conform to ICAO requirements which require a cross-country flight of at least 100 nautical miles. Change the phrase ''at least 25 nautical miles'' to ''more than 25 nautical miles.''
92	B. 5(d)(1)	Change the distance on a cross-country flight in the private pilot certification—gyroplane course from ''at least 25 nautical miles'' to ''more than 25 nautical miles.''

Proposal No.	CFR designation	Summary of the proposed changes
93	B. 5(e)(1)	Change the distance on a cross-country flight in the private pilot certification—powered lift course from ''at least 50 nautical miles'' to'' more than 50 nautical miles.''
94	C. 4(b)(5) & (6)	Allow approval of instrument rating courses that give credit for instrument training on a PCATD.
100	D. 4(b)(1)(i)	Require that the instrument training tasks for the commercial pilot certification—airplane single-engine course include training using a view-limiting device.
99	D. 4(b)(1)(ii)	Allow the complex airplane training in the commercial pilot certificate—single-engine airplane course to be performed in either in a single-engine complex airplane or multiengine complex airplane.
96	D. 4(b)(1)(iii)	Allow the day cross-country flight for the commercial pilot certificate airplane course to be performed under VFR or IFR.
96	D. 4(b)(1)(iv).	
96	D. 4(b)(2)(i).	
96	D. 4(b)(2)(iii).	
96	D. 4(b)(2)(iv).	
100	D. 4(b)(3)(i)	Require that the instrument training tasks for the commercial pilot certification—helicopter course include using a view-limiting device.
96	D. 4(b)(3)(ii)	Allow the day cross-country flight in the commercial pilot certificate helicopter course to be performed under VFR or IFR.
96	D. 4(b)(3)(iii).	
100	D. 4(b)(4)(i)	Require that the instrument training tasks for the commercial pilot certification—gyroplane course include using a view-limiting device.
96	D. 4(b)(4)(ii)	Allow the day cross-country flight in the commercial pilot certificate gyroplane course to be performed under VFR or IFR.
97	D. 4(b)(4)(iii)	Require a night time cross-country flight in the commercial pilot certificate—gyroplane course to include at least two hours of flight training during night-time conditions at an airport, that includes 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern).
100	D. 4(b)(5)(i)	Require that the instrument training tasks for the commercial pilot certification—powered-lift course include using a view-limiting device.
96	D. 4(b)(5)(ii)	Allow the day cross-country flight in the commercial pilot certificate powered-lift course to be performed under VFR or IFR.
96	D. 4(b)(5)(iii).	
100	D. 4(b)(7)(i)	Require that the instrument training tasks for the commercial pilot certification—airship course include using a view-limiting device.
96	D. 4(b)(7)(ii)	Allow the day cross-country flight in the commercial pilot certificate—airship rating course to be performed under VFR or IFR.
96	D. 4(b)(7)(iii).	
98	D. 4(d)(4)(vi)	Add ''ground reference maneuvers'' as an area of operation for the gyroplane rating in the commercial pilot certificate course.
95	D. 5(a), (c), (d), & (e)	Allow training to be performed solo or with an instructor onboard for the commercial pilot certificate courses.
101	E. 2	Requires a person prior to having completed the flight portion of the ATP course to have met the ATP aeronautical experience requirements of part 61, subpart G.
102	I. 3 & 4	Clarify the amount and content of ground and flight training for the add-on aircraft category and/or class rating courses in the recreational, private, commercial, and ATP certification courses.

VII. Description of Proposed Changes

The numbered paragraphs in this section describe the substantive changes we are proposing. Readers should note we are also making many editorial changes to the text of parts 61 and 141 for the purpose of clarity.

(1) Proposal to define ''night vision goggles.''

The FAA proposes to define ''night vision goggles'' (NVG) under § 61.1(b)(13) as ''an appliance worn by a pilot that enhances the pilot's ability to maintain visual surface reference at night.''

(2) Proposal to define ''night vision goggle operation.''

The FAA proposes to define ''night vision goggle operation'' under § 61.1(b)(14) as ''a flight at night where the pilot maintains visual surface reference utilizing NVGs in an aircraft that is approved for NVG operations.''

(3) Proposal to require airman certificates, ratings, and authorizations to be ''valid'' and/or ''current,'' where and when appropriate.

The FAA has received inquiries as to the meaning and application of the terms ''valid'' and ''current'' as they appear in part 61. Neither term is defined under the rules. The terms are used in some sections of part 61, but not consistently or universally. In this proposal, the FAA proposes definitions for the terms ''current'' and ''valid'' under proposed § 61.1(b)(4) and (20). We have also attempted to qualify when a person must hold a ''valid,'' ''current,'' or a ''valid and current'' pilot, flight instructor, and ground instructor certificate, rating, or authorization under part 61 to exercise the privileges of that certificate.

The FAA encourages comments as to whether our review of inserting the terms ''current'' and ''valid'' throughout part 61 has been sufficiently exhaustive and whether the approach is even needed. One could conclude that including the terms may lead to greater ambiguity since they are arguably implicit. That is, all certificates, ratings, or authorizations must be both ''current'' and ''valid,'' or else they may not be relied upon. Based on the comments received on this proposal and further analysis, we may decide to withdraw the proposed definitions, and we may even eliminate the use of these terms ''current'' and ''valid'' throughout part 61.

Under proposed § 61.1(b)(20), a ''valid'' pilot, flight instructor, or ground instructor certificate, rating, or

authorization would mean the certificate has not been surrendered, suspended, revoked, or expired. Under proposed § 61.1(b)(4), the term ''current'' as it relates to a pilot certificate, rating, or authorization would mean the pilot has met the appropriate recent flight experience requirements under part 61 for the flight operation being conducted. The term ''current'' as it relates to a flight instructor certificate would mean the flight instructor meets the flight instructor recent experience required under § 61.197. The term ''current'' as it relates to a ground instructor certificate would mean the ground instructor meets the recent experience required under § 61.217.

We are proposing to add either ''valid'' or ''current,'' or both, in: §§ 61.1(b)(2)(i) and (ii), (4), and (20); 61.3(a)(1), (c), (f)(2)(i) and (ii), and (g)(2)(i) and (ii); 61.39(c)(1), 61.69(a)(1); 61.75(b)(2) and (d); 61.77(b)(1); 61.103(j); 61.133(a)(1); 61.153(d)(1) and (3); 61.167(a) and (b)(3); the introductory language of 61.193; 61.197(a); and 61.215(a), (b), (c), and (d).

(4) Proposal to delete an obsolete date in § 61.3(j)(3).

Under existing § 61.3(j)(3), the rule makes reference to some obsolete dates and the rule is no longer needed. The rule states ''Until December 20, 1999, a person may serve as a pilot in operations covered by this paragraph after that person has reached his or her 60th birthday if, on March 20, 1997, that person was employed as a pilot in operations covered by this paragraph.'' December 20, 1999 has now passed, and the FAA is proposing to delete § 61.3(j)(3) in its entirety. Subsequently, it is necessary to delete the phrase ''Except as provided in paragraph (j)(3) of this section'' under § 61.3(j)(1).

(5) Proposal to revise the duration of the student pilot certificate.

The FAA proposes to amend § 61.19(b) so that the duration period for the student pilot certificate coincides with the medical duration provisions under § 61.23(c)(3). Since the FAA adopted a new duration period for the 3rd class medical certificate for persons who have not reached their 40th birthday, there has been a conflict between the duration period for the student pilot portion of the certificate under § 61.19(b) (i.e., ''expires 24 calendar months from the month in which it is issued'') and the duration period for the medical portion of the certificate for persons who have not reached their 40th birthday under § 61.23(c)(3) (i.e., ''The 36th calendar month after the month of the date of the examination shown on the certificate). Without the proposed change, persons under the age of 40 years would have the student pilot portion of their certificate expire, but the medical portion of that certificate would remain current. Therefore, the FAA proposes to amend § 61.19(b) so that it parallels the 3rd class medical duration provisions under § 61.23(c)(3).

(6) Proposal to extend the duration period to 36 calendar months for the student pilot certificate for persons seeking a balloon or glider rating.

Proposed § 61.19(b)(3) would extend the duration period of a student pilot certificate for persons seeking a balloon or glider rating to 36 calendar months. Since persons who seek a balloon and glider rating are not required to hold a medical certificate, it is reasonable to extend the student pilot certificate to 36 calendar months as discussed in the previous paragraph. Under this proposal, however, the duration period would be 36 calendar months regardless of the age of the applicant.

(7) Proposal to issue flight instructor certificate without an expiration date and to clarify reinstatement requirements.

The FAA proposes to amend §§ 61.19(d), 61.197(a), and 61.199 to allow the issuance of flight instructor certificates without an expiration date. This proposal responds to a petition for rulemaking from the Aircraft Owners and Pilots Association (AOPA) Safety Foundation. By letter, dated September 14, 1999, AOPA petitioned the FAA to revise § 61.19(d), § 61.195(a), (b), and (c), § 61.197(a) and (b), and § 61.199(a). The FAA was already working on this proposed rule; therefore we responded to AOPA's petition by acknowledging receipt of the petition and informing them their petition would be considered under this rulemaking.

The AOPA Safety Foundation's petition states that it believes the flight instructor renewal process results in burdening flight instructor renewal applicants and the operators of flight instructor refresher clinics (FIRCs) with unnecessary paperwork. The FAA would still require that flight instructors renew their privileges every 24 calendar months to exercise the privileges of their flight instructor certificate, but it would be done without requiring the re-issuance of the flight instructor certificate. The FAA envisions that flight instructor renewal applicants would continue to send a completed FAA Form 8710–1, ''Airman Certificate and/or Rating Application,'' to the FAA's Airman Certification Branch in Oklahoma City, OK, but the applicants would then only be required to have their logbooks endorsed by a FIRC operator or by the FAA. In lieu of the logbook endorsement, the flight instructor renewal applicant could simply receive a completion certificate or a stamp in their logbook from a FIRC operator or from the FAA. The FAA is tailoring this proposal to similar procedures established for pilots who accomplish their § 61.57 flight review or § 61.58 PIC proficiency check. However, the FAA wants to maintain the procedure of requiring flight instructor renewal applicants to send a completed FAA Form 8710–1 to the FAA's Airman Certification Branch because the FAA believes this procedure is important for maintaining order on flight instructor renewals and also for being able to retain statistical data on flight instructors.

Under this proposal, § 61.197(a)(2) would state that a person who holds a flight instructor certificate may renew the certificate by ''receiving an endorsement in his or her logbook or on another suitable document that is acceptable to the FAA * * *,'' to provide flight instructor renewal applicants significant leeway to show compliance with § 61.197. Additionally, for the same reasons, this language would be included in proposed § 61.199(a)(2) for flight instructor reinstatement applicants. Those instructors who hold flight instructor certificates with expiration dates would be permitted to continue to hold those certificates indefinitely and would just have to comply with the renewal procedures of § 61.197 or reinstatement procedures of § 61.199, as appropriate, to maintain their flight instructor ''privileges.'' Regardless of what method is used to show compliance with § 61.197 (i.e., logbook entry, completion certification, or a stamp inserted in the applicant's logbook, etc.), the FAA expects the flight instructor renewal/reinstatement applicant's record to show the completion date and expiration date of the renewal/reinstatement.

Additionally, the FAA has received several inquires concerning whether an applicant who holds an expired flight instructor certificate may reinstate that certificate by satisfactorily completing an additional flight instructor rating practical test. As an example, the person holds an expired flight instructor certificate with an Airplane Single-Engine and a Multiengine rating. The person then makes application for an Instrument-Airplane additional flight instructor rating and wishes to reinstate

his or her flight instructor certificate by satisfactorily accomplishing the Instrument-Airplane additional flight instructor rating practical test. In accordance with FAA Order 8700.1, page 11–3, paragraph 13, ''the holder of an expired flight instructor certificate issued after November 1, 1975, may have all ratings on the certificate reinstated by satisfactorily completing a single practical test.'' Therefore, the FAA proposes to amend § 61.199(a) to read:

(a) *Flight instructor certificates.* The holder of a flight instructor certificate who has not complied with the recent flight instructor experience requirements under § 61.197 may reinstate flight instructor privileges by:

(1) Completing and passing a flight instructor practical test, as prescribed under § 61.183(h); and

(2) Receiving an endorsement in his or her logbook or on another document that is acceptable to the FAA that shows the applicant completed and passed a flight instructor practical test, as prescribed under § 61.183(h).

This proposed amendment removes the current provision that states that a holder of an expired flight instructor certificate may obtain a new one by passing a practical test ''for one of the ratings listed on the expired flight instructor certificate.''

The proposed amendment would permit the reinstatement of a flight instructor certificate, either by satisfactorily accomplishing an additional flight instructor rating practical test or by satisfactorily accomplishing a practical test on one of the ratings listed on the expired flight instructor certificate.

(8) Proposal to standardize the recent experience requirements for ground instructor certificates.

The FAA proposes to amend § 61.19(e) by linking the currency requirements for the ground instructor certificate with the duration period requirements. The purpose is to further clarify the currency requirements for ground instructors. Since the issuance of § 61.19(e), there have been some questions about how a ground instructor remains current. Therefore, the FAA proposes to amend § 61.19(e) by linking this provision with the recent experience requirements under proposed § 61.217.

(9) Proposal to require Examiners to hold only a 3rd class medical certificate.

The FAA proposes to amend § 61.23(a)(3)(vii) to require Examiners to hold only a 3rd class medical certificate. The FAA wants to parallel the medical certificate requirements for Examiners with the medical certificate requirements that are contained in FAA Order 8710.3D. FAA Order 8710.3D requires that an Examiner hold only a 3rd class medical certificate when performing practical tests in an aircraft (with an exception for Examiners administering practical tests in a glider or balloon).

(10) Proposal to clarify that persons exercising the privileges of a glider or balloon rating are not required to hold a medical certificate.

The FAA proposes to amend § 61.23(b)(3) to clarify that persons exercising the privileges of a glider or balloon rating are not required to hold a medical certificate. The FAA has received questions about the wording of § 61.23(b)(3). Some have asked whether the no medical certificate requirement for operating a balloon or a glider applies only when a person is taking a practical test for a glider or balloon rating, or whether it applies when a person is exercising the privileges of a glider or balloon rating. The rule is intended to apply in both situations. The FAA is proposing to amend § 61.23(b)(3) to clarify that persons exercising the privileges of their glider or balloon rating in a glider or a balloon, as appropriate, are not required to hold a medical certificate. As further discussed in proposed § 61.23(b)(8), a person also is not required to hold a medical certificate when taking a practical test for a balloon or glider rating.

(11) Proposal to add situations where an Examiner need not hold a medical certificate.

The FAA proposes to amend § 61.23(b)(7) to establish that when an Examiner or a Check Airman is administering a test or check for an airman certificate, rating, or authorization in a glider, balloon, flight simulator, or flight training device, he or she would not be required to hold a medical certificate. Existing § 61.23(b)(7) states that an Examiner or Check Airman is not required to hold a medical certificate when administering a test or check for a certificate, rating, or authorization in a flight simulator or flight training device. The words ''glider'' and ''balloon'' were inadvertently left out when the rule was last revised.

(12) Proposal to add situations where an applicant need not hold a medical certificate.

The FAA proposes to amend § 61.23(b)(8) to establish that when an applicant is receiving a test or check for a certificate, rating, or authorization in a glider, balloon, flight simulator, or flight training device, the applicant is not required to hold a medical certificate.

Existing § 61.23(b)(8) states that an applicant is not required to hold a medical certificate when receiving a test or check for a certificate, rating, or authorization in a flight simulator or flight training device. The words ''glider'' and ''balloon'' were inadvertently left out when the rule was last revised.

(13) Proposal to excuse military pilots of the U.S. Armed Forces from having to obtain an FAA medical certificate.

The FAA proposes to add a new § 61.23(b)(9) to excuse military pilots from having to hold an FAA medical certificate. Military pilots would be required to complete a medical examination for flight status as a military pilot from a flight surgeon at a military medical facility of the United States. The examination would have to be current.

In accordance with existing § 61.39(a)(4), for a military pilot to be eligible for a practical test for an airman certificate or rating issued under part 61, an applicant must ''hold at least a current third-class medical certificate.'' The FAA has determined that the medical examinations provided by a U.S. Armed Forces medical facility to military pilots equals or exceeds the content and quality of a medical certification required by the FAA. Therefore, the FAA proposes to amend § 61.23 by adding paragraph (b)(9) and excuse pilots of the U.S. Armed Forces from having to hold an FAA medical certificate provided that: (1) The pilot completed a medical examination for flight status as a military pilot from a flight surgeon at a U.S. military medical facility; (2) The examination is current; and (3) The flight does not involve a flight in air transportation service under parts 121, 125, or 135 of this chapter.

(14) Proposal to delete the requirement for a person to furnish their social security number.

The FAA proposes to delete the requirement under § 61.29(d)(3) that a person who requests replacement of a lost or destroyed airman certificate, medical certificate, or knowledge test report must furnish their social security number. By law, the FAA cannot require a person to furnish his or her social security number. A person, however, may voluntarily provide his or her social security number as a means to establish his or her identity.

(15) Proposal to delete § 61.31(d)(2).

The FAA proposes to delete § 61.31(d)(2), which requires a PIC of an aircraft to receive ''training for the purpose of obtaining an additional pilot certificate and rating that are appropriate to that aircraft, and be under the supervision of an authorized instructor.'' The FAA has received inquiries about the difference between subparagraphs (d)(2) and (d)(3), and the FAA determined that these subparagraphs conflict with one another. Furthermore, subparagraph (d)(2) conflicts with § 61.51(e)(1)(i).

When the FAA initially proposed § 61.31(d), it was considering coining a new phrase that was to be known as ''supervised PIC flight'' that would allow a PIC who was in training to act as PIC of an aircraft if properly supervised by the person's flight instructor. (See 60 FR 41160, 41227, August 11, 1995). The ''supervised PIC flight'' concept was not adopted in the final rule, but subparagraph (d)(2) erroneously remained in the final rule. (See 62 FR 16220.) Subparagraph (d)(3) of § 61.31 covers what the FAA currently requires in order to act as PIC and for logging PIC time under § 61.51(e)(1)(i).

(16) Proposal to add training and qualification requirements for pilots who want to operate with night vision goggles.

Proposed § 61.31(k) would require ground and flight training and a one-time instructor endorsement for a pilot to act as a PIC during NVG operations. Also, the FAA proposes to ''grandfather'' those PICs who previously qualified as a PIC for NVG operations under § 61.31(k). Under proposed subparagraph (3), a pilot would not need the ''one-time'' NVG training and endorsement, provided the pilot can document satisfactory accomplishment of any of the following pilot checks for using NVGs in an aircraft:

- Completion of an official pilot proficiency check for using NVGs and that check was conducted by the U.S. Armed Forces; or
- Completion of a pilot proficiency check for using NVGs under part 135 of this chapter and that check was conducted by an Examiner or a Check Airman.

(17) Proposal to require proof of current residential address at the time of application for a knowledge test.

Proposed § 61.35(a)(2)(iv) would clarify that when a person's permanent mailing address is a P.O. Box, the person must show proof of their current residential address at the time of application for a knowledge test. The purpose of this change is to conform the instructions in proposed § 61.35(a)(2)(iv) with the instructions in existing § 61.60.

(18) Proposal to delete the word ''scheduled'' in front of the phrase ''U.S. military air transport operations.''

The purpose for this proposal is to delete the word ''scheduled'' that appears in front of the phrase ''U.S. military air transport operations'' under § 61.39(b)(2) because there is no such thing as ''scheduled'' U.S. military transport operations.

(19) Proposal to delete the phrase ''or a class rating with an associated type rating'' in reference to the endorsement exception for applying for an additional aircraft class rating.

The FAA proposes to delete the phrase ''or a class rating with an associated type rating'' under § 61.39(c)(2) for applying for an additional aircraft class rating. Existing §§ 61.39(a)(6) and 61.63(c) require an applicant for a practical test for an additional aircraft class rating to have received a logbook or training record endorsement from an authorized instructor. Existing § 61.39(c)(2) incorrectly suggests that an endorsement is not required for an applicant for an aircraft class rating. Thus, the FAA is proposing to amend § 61.39(c)(2) by removing the phrase ''or a class rating with an associated type rating'' to clarify that we are not excepting applicants for an aircraft type rating from obtaining an endorsement from an authorized instructor.

(20) Proposal to clarify the time frame for completing a practical test.

The FAA proposes to change the phrase ''60 calendar days'' in § 61.39(d) and (e) to read ''2 calendar months.'' The purpose is to make it simpler to calculate the time for when a segmented practical test must be completed. An applicant who accomplishes a segmented practical test would be required to complete the entire practical test within 2 calendar months after the applicant began the test. For example, an applicant who began the oral portion of the practical test on July 2, 2006, would have to complete the remaining portions of the practical test (i.e., simulator/training device check and aircraft flight check) before the end of September 2006.

(21) Proposal to clarify when an applicant has the choice to perform the practical test as a single pilot or use a second in command.

The FAA is proposing to revise § 61.43(b) to clarify when an applicant can perform the practical test as a single pilot or use a second in command. If a second in command pilot is used under proposed § 61.43(b)(3), the limitation ''Second in Command Required'' would be placed on the applicant's pilot certificate. Also, we are proposing to revise § 61.43(a) by moving existing § 61.43(a)(5) into proposed § 61.43(b).

Under proposed § 61.43(b)(1), if the aircraft's FAA-approved aircraft flight manual requires the pilot flight crew complement be a single pilot, then the applicant would be required to demonstrate single pilot proficiency on the practical test.

Under proposed § 61.43(b)(2), if the aircraft's type certification data sheet requires the pilot flight crew complement be a single pilot, then the applicant would be required to demonstrate single pilot proficiency on the practical test.

The Cessna 172, Cessna 310, Piper Malibu (PA–44), and Beech Baron (BE–58) are examples of aircraft whose flight manuals and/or type certification data sheets require the pilot flight crew complement be a single pilot.

Under proposed § 61.43(b)(3), if the FAA Flight Standardization Board report, FAA-approved aircraft flight manual, or aircraft type certification data sheet allows the pilot flight crew complement to be either a single pilot, or a pilot and a copilot, then the applicant may perform the practical test as a single pilot or with a copilot. If the applicant performs the practical test with a copilot, the limitation of ''Second in Command Required'' will be placed on the applicant's pilot certificate. Under proposed § 61.43(b)(3), the ''Second in Command Required'' limitation may be removed if and when the applicant passes the practical test by demonstrating single-pilot proficiency in the aircraft in which single-pilot privileges are sought.

Examples of aircraft for which a FAA Flight Standardization Board has approved the minimum pilot flight crew compliment to be either a single pilot, or a pilot with a copilot, are certain models of the Beech 300, Beech 1900C, and Beech 1900D airplanes that received certification under SFAR 41; certain models of the Empresa Brasileira de Aeronautica EMB 110 airplanes that received certification under SFAR 41, and certain models of the Fairchild Aircraft Corporation SA227–CC,

SA227–DC, and other Fairchild commuter category airplanes on that same type certificate that received certification under SFAR 41 and that have a passenger seating configuration, excluding pilot seats, of nine seats or less and the airplane's type certificate authorizes single pilot operations.

The Cessna 501, Cessna 525, Cessna 551, Raytheon 390, and Beech 2000 are examples of aircraft whose flight manuals and/or type certification data sheets allow the minimum pilot flight crew compliment to be either a single pilot, or a pilot with a copilot.

(22) Proposal to define what is a military aircraft for the purpose of a practical test.

Proposed § 61.45(a)(2)(iii) would clarify what is a ''military aircraft'' when used on a practical test. Recently, there has been some confusion as whether it is permissible to use a surplus military aircraft that has no civilian aircraft type designation for a practical test for an airman certificate and rating. For example, some applicants have requested to use a surplus military OH–58 Army helicopter for a practical test. These surplus military helicopters are not Bell BH–206 helicopters, and they do not have a civilian type designation. The FAA has determined it is not permissible to use these surplus former military aircraft for completing a practical test.

To clarify this issue, proposed § 61.45(a)(2)(iii) would define a ''military aircraft'' as an aircraft that is under the direct operational control of the U.S. Armed Forces. Under this definition, surplus military aircraft are not military aircraft because they are not under the direct operational control of the U.S. military.

(23) Proposal to except gliders from the requirement that aircraft used for a practical test must have engine power controls and flight controls that are easily reached and operable in a conventional manner by both pilots.

The FAA proposes to amend § 61.45(c) by excepting gliders from the requirement that aircraft used for a practical test must have engine power controls and flight controls that are easily reached and operable in a conventional manner by both pilots. Gliders do not have engine power controls.

(24) Proposal to provide for logging night vision goggle time.

Proposed § 61.51(b)(3)(iv) would add a provision for logging ''night vision goggle time'' to show compliance with the training time and aeronautical experience required for acting as a PIC for NVG operations. The logging of NVG time would be permitted when performed in an aircraft in flight, in a flight simulator, or in a flight training device.

(25) Proposal to correct an omission of the words ''airline transport pilot'' regarding logging of pilot in command time.

Because existing § 61.51(e)(1) does not include ''airline transport pilots,'' it may appear that holders of airline transport pilot certificates do not have the same PIC logging privileges as recreational pilots, private pilots, and commercial pilots. To avoid any confusion, the FAA proposes to add the words ''airline transport pilot'' to § 61.51(e)(1).

(26) Proposal to permit a pilot performing the duties of pilot in command while under the supervision of a qualified pilot in command to log pilot in command time.

Proposed § 61.51(e)(1)(iv) would allow a pilot who is performing the duties of pilot in command while under the supervision of a qualified PIC to log PIC time. The purpose for this proposal is to provide another way for holders of a commercial pilot certificate or airline transport pilot certificate to log PIC time.

Section 61.51(e)(1)(iv) would permit a pilot who is performing the duties of PIC to log PIC flight time. The pilot who is performing the duties of PIC would be required to hold a current and valid commercial pilot certificate or a current and valid airline transport pilot certificate, with the aircraft rating that is appropriate to the category and class of aircraft being flown, if a class rating is appropriate. The pilot would be required to be under the supervision of an appropriately qualified PIC. Additionally, the pilot who is performing the duties of PIC would be required to undergo an approved PIC training program consisting of ground and flight training on the following areas of operation: pre-flight preparation, preflight procedures, takeoff and departure phase, in-flight maneuvers, instrument procedures, landings and approaches to landings, normal and abnormal procedures, emergency procedures, and post-flight procedures.

The supervising PIC would be required to hold either a current and valid commercial pilot certificate and a current and valid flight instructor certificate with an aircraft rating that is appropriate to the category, class, and type of aircraft being flown, if a class or type rating is required, or the supervising PIC would be required to hold a current and valid airline transport pilot certificate and aircraft rating that is appropriate to the category, class, and type of aircraft being flown, if a class or type rating is required. The supervising PIC would be required to log the PIC training given in the pilot's logbook, certify having given the PIC training in the pilot's logbook, and attest that certification with his or her signature, flight instructor certificate number and expiration date, or ATP certificate number, as appropriate. This proposal would parallel and clarify the provisions in proposed § 61.129 and existing §§ 61.31(d), 61.159(a)(4), 61.161(a)(3), and 61.163(a)(3) for PIC aeronautical experience.

(27) Proposal to conform the rule for logging of instrument time in a flight simulator, flight training device, and PCATD to existing policy.

The FAA proposes to amend § 61.51(g)(4) so the logging of instrument time in a flight simulator, flight training device, or PCATD conforms to existing policy. An authorized instructor (See § 61.1(b)(2)) must be present in the flight simulator, flight training device, or PCATD when instrument time is logged for training and aeronautical experience used to meet the requirements for a certificate, rating, or flight review (See § 61.51(a)). The instructor must sign the person's logbook to verify the training time and the content of the session.

Examples of situations in which an authorized instructor would be considered present in the flight simulator, flight training device, or PCATD include where an authorized instructor is seated at a center control panel in a flight simulation lab and is monitoring each student's performance from the control panel display; where an instructor assigns a student to perform several instrument tasks and then leaves the room, if the flight training device has a monitoring and tracking system that allows the authorized instructor to review the entire training session; and where one authorized instructor monitors several students simultaneously in the same room at a flight simulation lab.

The instructions for making logbook entries also would be amended to reflect the proposal that PCATDs could be used to meet the instrument time and recent flight experience requirements under part 61.

(28) Proposal to establish the aircraft requirements for when a pilot logs flight time.

Proposed § 61.51(j) would establish the aircraft and aircraft airworthiness requirements for when a pilot logs flight time. To log flight time to meet the aeronautical experience requirements for a certificate, rating, or recent flight experience under part 61, the aircraft must hold an airworthiness certificate (except in the case of U.S. military aircraft flown by U.S. military pilots and under the direct operational control of the U.S. Armed Forces or public aircraft flown by pilots of a Federal, State, county, or municipal law enforcement agency).

This proposal would, in essence, codify existing FAA policy under FAA Order 8700.1, Volume 2, Chapter 1, pages 1–46 and 1–47, paragraph 9.B, which states:

''*Logging Time.* Unless the vehicle is type certificated as an aircraft in a category listed in (14 CFR) § 61.5(b)(1) or as an experimental aircraft, or otherwise holds an airworthiness certificate, flight time acquired in such a vehicle may not be used to meet requirements of (14 CFR) part 61 for a certificate or rating or to meet the recent flight experience requirements.''

The FAA has received several inquiries about whether it is permissible to use surplus military aircraft that do not hold a civilian type designation as an aircraft or an airworthiness certificate for logging flight time to meet the requirements for a certificate, rating, or recent flight experience under part 61. The FAA's response has been that the aircraft must be of the category, class (if class is applicable), and type (if type is applicable) listed under § 61.5(b)(1) through (7), or the aircraft must hold an experimental airworthiness certificate.

With the issuance of Public Law 106–424, dated November 1, 2000, pilots for a Federal, State, county, or municipal law enforcement agency can log flight time for the purposes of meeting the aeronautical experience requirements for a certificate, rating or recent flight experience under part 61 in limited cases. The stipulation is that the pilot must be operating a public aircraft, as defined under 49 U.S.C. 40102, and the aircraft must be identifiable as a category and class of aircraft, as listed under § 61.5(b), and being used in law enforcement activities of a Federal, State, county, or municipal law enforcement agency.

(29) Proposal to establish the criteria and standards for logging NVG time.

Proposed § 61.51(k) would establish the criteria and standards for logging NVG time. This proposal would establish the minimum information required to be entered when logging time in a pilot's logbook. Per proposed § 61.51(k)(3), the required information that is required to be logged for logging NVG time are the logbook entries covered under § 61.51(b).

Under the proposal, a pilot may log NVG time using NVGs as the sole visual reference of the surface in an operation conducted in an aircraft at night (during the period beginning 1 hour after sunset and ending 1 hour before sunrise) in flight. Alternatively, a pilot may log NVG time in a flight simulator or in a flight training device provided the flight simulator or flight training device's lighting system has been adjusted to replicate the period beginning 1 hour after sunset and ending 1 hour before sunrise.

Under proposed § 61.51(k)(2), the rule would establish when an authorized instructor may log NVG time. The instructor must be conducting NVG training and must be using NVGs as the sole visual reference of the surface. The time must be in an aircraft operated at night in flight, or in a flight simulator or flight training device with the lighting system adjusted to represent the period beginning 1 hour after sunset and ending 1 hour before sunrise.

(30) Proposal to amend the instrument recent flight experience tasks and iterations and to allow use of personal computer aviation training devices, flight simulators, and flight training devices for maintaining instrument recent flight experience.

In § 61.57(c), the FAA proposes to amend the instrument flight experience tasks and iterations and to allow use of PCATD, flight simulators (FS), and flight training devices (FTD) for maintaining instrument recent flight experience.

The proposed change to § 61.57(c) would clarify that a person who acts as pilot in command under IFR or weather conditions less than the minimums prescribed for VFR is required to look back 6 calendar months from the date of the flight to determine whether the instrument flight experience requirements were met. For example, if a pilot intends to act as pilot in command under IFR (or in weather conditions less than the minimums prescribed for VFR) on a flight that is to occur on February 24, 2007, the pilot would count backwards 6 calendar months from the date of the flight to August 2006. The pilot would have to have performed and logged the instrument recent flight experience requirements between August 1, 2006 and February 24, 2007.

For maintaining instrument flight experience in airplanes, powered-lifts, helicopters, and airships, the proposal would require the pilot to perform and log the instrument flight experience in an airplane, powered-lift, helicopter, or airship that is appropriate to the category of aircraft for the instrument rating privileges that the pilot desires to maintain. This instrument flight experience could be completed in either actual instrument meteorological conditions or under simulated instrument conditions with the use of a view-limiting device. The instrument flight experience and iterations must include at least:

- Six instrument approaches consisting of both precision and non-precision approaches;
- One complete holding pattern at a radio station and one complete holding pattern at an intersection or waypoint; and
- One hour of simulated cross-country practice operation that involves intercepting and tracking courses through the use of navigation systems while performing a takeoff phase, area departure phase, enroute phase, area arrival phase, approach phase, and a missed approach phase of flight.

Subject to certain limitations, a pilot could choose to either complete the instrument experience requirements in an aircraft and/or through use of an FS, FTD, or PCATD. The simulation devices would have to be representative of the category of aircraft for the instrument rating privileges that the pilot desires to maintain.

Under proposed § 61.57(c)(2), a person could use an FS or FTD exclusively by performing and logging at least 3 hours of instrument recent flight experience within the 6 calendar months before the date of the flight.

Under proposed § 61.57(c)(3), a person could use a PCATD exclusively by having performed and logged at least 3 hours of instrument recent experience within the 2 calendar months before the date of the flight. We have deliberately proposed differences between the use of a PCATD and an FS or FTD because use of a PCATD to maintain instrument recent experience is a relatively new concept, and the FAA wants to further evaluate its use before we allow use of PCATDs equal to that of FSs and FTDs.

Under proposed § 61.57(c)(4), a person could combine use of the aircraft and an FS, FTD, or PCATD to obtain instrument experience. When a pilot elects to combine use of an aircraft and a simulation device, we would require, under proposed § 61.57(c)(4),

completion of one hour of instrument flight time in the aircraft and 3 hours in the FS, FTD, or PCATD within the preceding 6 calendar months.

Under proposed § 61.57(c)(5), a person could combine use of an FS or FTD, and a PCATD to obtain instrument recent experience. When a pilot elects this combination, we would require one hour in an FS or FTD, and 3 hours in a PCATD within the preceding 6 calendar months.

Under proposed § 61.57(c)(6), the instrument tasks and iterations for maintaining instrument flight experience in a glider would be amended and require the pilot to have:

- Performed and logged at least 1 hour of instrument time in flight in a glider or in a single-engine airplane performing cross-country practice operations that involved intercepting and tracking courses through the use of navigation systems while performing an area departure phase, enroute phase, and area arrival phase of flight; and
- At least 2 hours of instrument flight time in a glider or in a single-engine airplane performing straight glides, turns to specific headings, steep turns, flight at various airspeeds, navigation, and slow flight and stalls. However, if the pilot were to carry passenger(s) in a glider under IFR or in weather conditions less than the minimums prescribed for VFR, the 2 hours of instrument recent flight experience would have to be performed in a glider performing performance maneuvers, performance airspeeds, navigation, and slow flight and stalls.

The person would be required to log this instrument recent flight experience, tasks, and iterations in their logbook to show accomplishment of this instrument training. The person would be required to use a view-limiting device when performing this instrument recent flight experience or be in actual instrument meteorological conditions.

(31) Proposal to clarify when a person must perform an instrument proficiency check to act as the PIC under IFR or in weather conditions less than minimums prescribed for VFR.

The FAA proposes to amend § 61.57(d) to clarify when a person, who has not met the instrument recent flight experience of § 61.57(c), must perform an instrument proficiency check to act as the PIC under IFR or in weather conditions less than the minimums prescribed for VFR. The proposal would require a pilot who has not complied with the instrument recent experience requirement of § 61.57(c) within the preceding 12 calendar months to complete an instrument proficiency check to regain PIC instrument qualifications. The proficiency check would have to be performed in the same aircraft category that is appropriate to the instrument privileges desired. The proficiency check would consist of the tasks listed in the practical test standards for the instrument rating appropriate to the aircraft category.

As explained in the discussion of proposed § 61.57(c), this proposal would require a pilot to perform and log the instrument recent flight experience within the preceding six calendar months from the date of the flight to act as the PIC under IFR or in weather conditions less than the minimums prescribed for VFR. Under proposed § 61.57(d), if the pilot has not performed and logged the required instrument recent flight experience within the preceding six calendar months from the date of the flight, the pilot is given an additional 6 calendar months to perform and log the required instrument recent flight experience. However, during this 6-month period, the pilot may not act as the PIC under IFR or in weather conditions less than the minimums prescribed for VFR until the pilot performs and logs the required instrument recent flight experience of proposed § 61.57(c). If during this 6-month period, the pilot does not accomplish the required instrument recent flight experience, then the pilot would have to perform an instrument proficiency check to regain his or her instrument currency.

For example, if a pilot is intending to act as pilot in command under IFR (or in weather conditions less than the minimums prescribed for VFR) on a flight on February 24, 2007, and the pilot has not completed the required instrument recent flight experience of proposed § 61.57(c), then the pilot would count backwards 12 calendar months from the date of the flight. Thus, the pilot would have to have performed and logged the instrument recent flight experience requirements at sometime between February 24, 2007, and February 1, 2006, to avoid being required to submit to an instrument proficiency check.

(32) Proposal to establish a recent flight experience requirement for acting as a PIC in a night vision goggle operation.

Proposed § 61.57(f) would establish a recent flight experience requirement to remain PIC qualified for ''NVG operations.'' To understand the term, ''NVG operations,'' it is necessary to further clarify the term ''flight.'' The term ''flight'' means a takeoff and landing, with each landing involving a flight in the traffic pattern. Thus, a person who performs six takeoffs and landings, with each landing involving a flight in the traffic pattern, and uses NVGs to maintain visual reference may log six ''NVG operations.''

For a pilot to act as a PIC using NVGs with passengers on board, the pilot, within the preceding 2 calendar months, would have to perform and document the tasks under proposed § 61.57(f) as the sole manipulator of the controls during the time period that begins 1 hour after sunset and ends 1 hour before sunrise. If the pilot had not performed and logged the tasks under § 61.57(f), then the FAA would allow the pilot an additional 2 calendar months to perform and log the tasks under § 61.57(f). However, the pilot would not be allowed to carry passengers during this second 2-month period. If the pilot had still not performed and logged the NVG tasks in proposed § 61.57(f) during those additional 2 calendar months, then the pilot would be required to pass a NVG proficiency check to act as a PIC using night vision goggles.

To explain this ''2 calendar month'' currency criteria in proposed § 61.57(f)(1), lets say for the sake of explaining this that the proposal becomes a final rule effective December 1, 2006. In this example, today is now February 24, 2007 and the pilot intends to act as pilot in command using NVGs with passengers on board a flight. The pilot would count backwards 2 calendar months from the date of the flight which means the pilot would count backwards from February 24, 2007, the month of January, 2007, and through the month of December, 2006 to December 1, 2006). Therefore, the pilot would have to have performed and logged the required NVG operating experience between December 1, 2006 and February 24, 2007.

Under proposed § 61.57(f)(2), if a pilot has not performed and logged the required NVG recent flight experience between December 1, 2006 and February 24, 2007, then that pilot would have to perform and log the required NVG operating experience by April 30, 2007 to act as the pilot in command during March 2007 through April 2007 using NVGs, but could not carry passengers on board. Otherwise, per proposed § 61.57(f)(2), the pilot is given 2 additional months to perform and log the required NVG operating experience, but during that period cannot carry passengers until he/she has performed and logged the required NVG operating experience.

(33) Proposal to establish a NVG proficiency check requirement to act as a PIC of a night vision goggle operation.

Proposed § 61.57(g) would establish a proficiency check to be PIC qualified for NVG operations. Also, this proposal would establish a proficiency check to regain PIC qualifications for NVG operations when the pilot's NVG privileges have lapsed.

Proposed § 61.57(g) would require a pilot who has not complied with the NVG operating experience requirement of proposed § 61.57(f) to complete a NVG proficiency check to regain PIC NVG qualifications. The proficiency check would have to be performed in the same aircraft category that is appropriate to the NVG operation desired. The proficiency check would consist of the tasks listed in proposed § 61.31(l) and would be administered by an individual listed under § 61.31(l).

(34) Proposal to amend § 61.59 to parallel § 67.403 to standardize the language between the rules.

The FAA proposes to amend § 61.59(a) and (b) and add (c), in part, to parallel the provisions under existing § 67.403. This proposal would standardize the language in this chapter on falsification, reproduction, and alteration of applications, certificates, logbooks, reports, and records for the purposes of simplicity and clarity.

(35) Proposal to amend the format and re-structure of § 61.63.

The FAA proposes to amend § 61.63 to simplify its format, structure, and move paragraphs (e), (f), and (g), which address the usage and limitations of the flight simulator and flight training device, to proposed § 61.64.

The FAA proposes to revise existing § 61.63(c)(3) to clarify its applicability to those applicants who hold only a lighter-than-air (LTA)-Balloon rating and who seek an LTA-Airship rating. Currently, the word ''only'' does not appear in § 61.63(c)(3).

The FAA proposes minor amendments to § 61.63(d) to clarify the requirements for an additional type rating and a type rating sought concurrently with an additional aircraft category and class rating.

The FAA proposes to revise existing § 61.63(h) (and re-designate it to proposed § 61.63(e)) to clarify the use of an aircraft on a practical test for a type rating that is not capable of instrument maneuvers and procedures and the issuance of a type rating with a VFR limitation under these circumstances.

The FAA proposes to revise existing § 61.63(i) (and re-designate it to proposed § 61.63(f)) to clarify that an applicant for a type rating in a multiengine airplane with single-pilot station must perform the practical test in the multi-pilot seat version of that multiengine airplane. Or, the practical test may be performed in the single-seat version of that airplane if the Examiner is in a position to observe the applicant during the practical test in the case where there is no multi-seat version of that multiengine airplane. This proposal parallels the same requirements under proposed § 61.157(h) (existing § 61.157(k)) for a type rating in a multiengine airplane with single-pilot station.

The FAA proposes to amend existing § 61.63(j) (and re-designate it to proposed § 61.63(g)) to clarify that an applicant for a type rating at other than ATP certification level for a single engine airplane with a single-pilot station must perform the practical test in the multi-pilot seat version of that single engine airplane. Or, the practical test may be performed in the single-seat version of that airplane if the Examiner is in a position to observe the applicant during the practical test in the case where there is no multi-seat version of that single engine airplane. This proposal would parallel the requirements under proposed § 61.157(i) (existing § 61.157(l)) for a type rating in a single engine airplane with single-pilot station at the ATP certification level.

Proposed § 61.63(i) would permit an Examiner who conducts a practical test for an additional aircraft rating under this section to waive any of the tasks that the FAA has approved waiver authority. This proposal would parallel the proposed requirements under proposed § 61.157(j) (existing § 61.157(m)) at the ATP certification level.

(36) Proposal to address the use and limitations of flight simulators and flight training devices.

The FAA proposes to add § 61.64 that would address the use and limitations of flight simulators and flight training devices for additional aircraft ratings and for aircraft ratings at the ATP certification level. These requirements currently are found under § 61.63(e), (f), and (g). Additionally, proposed § 61.64 would incorporate the parallel requirements for flight simulators and flight training devices that currently are found under § 61.157(g), (h), and (i) at the ATP certification level. The purpose of these changes is to clarify and simplify § 61.63 and § 61.157 and place the use and limitation requirements for flight simulators and flight training devices in one section.

Proposed § 61.64(a) through (f) would clarify when an applicant may use a flight simulator or flight training device for all training, when an applicant may use a flight simulator for all of the required practical test, when the supervising operating experience (SOE) limitation on an applicant's pilot certificate is required, and when the SOE limitation may be removed.

Proposed 61.64(a) would allow an applicant to use a flight simulator for all of the training and the practical test for the airplane category, class, or type rating, provided the flight simulator and the applicant meet specific qualifications under proposed § 61.64(a)(1) through (3).

Proposed § 61.64(b) would allow an applicant for the airplane category, class, or type rating to use a flight training device for training only if the flight training device meets the specific qualifications under proposed § 61.64(b)(1) through (4). The rule would further make clear that a flight training device may not be used for any portion of the practical test. This is not a change to the existing requirements, but a clarification.

Proposed § 61.64(c) would allow an applicant to use a flight simulator for all of the training and the practical test for the helicopter class or type rating, provided the flight simulator and the applicant meet the specific qualifications under proposed § 61.64(c)(1) and (2).

Proposed § 61.64(d) would allow an applicant for the helicopter class or type rating to use a flight training device for training only if the flight training device meets specific qualifications under proposed § 61.64(d)(1) through (4). The rule would further make clear that a flight training device may not be used for any portion of the practical test. This is not a change to the existing requirements but a clarification.

Proposed § 61.64 (e) would state that an applicant may use a flight simulator for all of the training and the practical test for the powered-lift category or type rating, provided the flight simulator and the applicant meet specific qualifications under proposed § 61.64(e)(1) and (2).

Proposed § 61.64(f) would allow an applicant for the powered-lift category or type rating to use a flight training device for training only if the flight training device meets specific qualifications under proposed § 61.64(f)(1) through (4). The rule would further clarify that a flight training device may not be used for any portion of the practical test. This is not a change

to the existing requirements but a clarification.

As a result of current language in existing paragraphs (e), (f), and (g) of § 61.63 and paragraphs (g), (h), and (i) of § 61.157, there is confusion as to whether an applicant could complete all training and testing for a type rating in a simulator when there is a supervised operating experience limitation on the applicant's pilot certificate for that aircraft type rating. Proposed § 61.64(a)(2)(i), (c)(2)(i), and (e)(2)(i) would specify that a type rating cannot contain the supervised operating experience limitation (*i.e.*, ''This certificate is subject to pilot in command limitations for the additional rating'') for an applicant to use a flight simulator for *all* (emphasis added) training and testing for a type rating. A flight simulator may be used for some of the required training and testing for a type rating, but not ''all'' the required training and testing. The kinds and amount of training and testing that would be permitted to be performed in a flight simulator is what the flight simulator is approved for and in accordance with proposed § 61.64(a)(4)(i) and (b), (c)(3)(i) and (d), or (e)(3)(i) or (f), as appropriate for the category of aircraft and type rating sought.

Proposed § 61.64(a)(1)(iii), (c)(1)(iii), and (e)(1)(iii) would establish that at minimum a Level C flight simulator is required if an applicant wishes to use a flight simulator on a practical test for an aircraft rating. Proposed § 61.64(a)(1)(iv), (c)(1)(iv), and (e)(1)(iv) would establish that at minimum a Level A flight simulator is required for an applicant to use a flight simulator for training.

(37) Proposal to require at least 10 hours of cross-country time as pilot in command to be in the category of aircraft appropriate to the instrument rating sought.

The FAA proposes to amend § 61.65 to conform the FAA's instrument rating cross-country time requirements as PIC with the corresponding International Civil Aviation Organization (ICAO) requirements. Proposed § 61.65(d) would address the aeronautical experience and training for the instrument-airplane rating. Proposed § 61.65(e) would address the aeronautical experience and training for the instrument-helicopter rating. Proposed § 61.65(f) would address the aeronautical experience and training for the instrument-powered-lift rating. As an example, ICAO Annex 1, paragraph 2.10.1.2.2 requires that an applicant for an instrument-helicopter rating log at least of 10 hours of cross-country time as pilot in command in a helicopter. Currently, § 61.65(d)(1) merely states ''At least 50 hours of cross-country flight time as pilot in command, of which at least 10 hours must be in airplanes for an instrument-airplane rating.'' It does not account for the instrument-helicopter rating or the instrument-powered-lift rating.

(38) Proposal to allow 10 hours of the instrument training to be performed on a personal computer aviation training device (PCATD).

The FAA proposes to amend § 61.65 by adding paragraph (h), which would allow 10 hours of instrument training for the instrument rating to be performed on a PCATD. The instrument training may be given by the holder of a ground instructor certificate with an instrument rating or by a holder of a flight instructor certificate with an instrument rating appropriate to the instrument rating sought. The 10 hours of instrument training given in a PCATD would be included in the 20 hours of instrument training allowed to be performed in a flight simulator or a flight training device under proposed § 61.65(e).

For a PCATD to be used for instrument training under proposed § 61.65, the PCATD, instrument training, and instrument tasks would have to be approved by the FAA. The instrument training on a PCATD would have to be provided by an authorized instructor. For a person to receive the maximum 10 hours of credit in a PCATD, the person may not have logged and be credited for more than 10 hours of instrument training in a flight simulator or flight training device. A view-limiting device would have to be worn by the applicant when logging instrument training in the PCATD. The instrument training and instrument tasks that may be approved for performance on a PCATD would be listed in proposed § 61.65(f). The FAA specifically requests comments on whether, and to what extent, we should allow use of a PCATD for providing instrument training for the instrument rating.

(39) Proposal to correct a typographical error in § 61.69(a)(4).

The FAA is proposing to correct a typographical error in which the word ''or'' was erroneously deleted from § 61.69(a)(4) during the writing of the ''Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft'' Final Rule (See 69 FR 44866; July 27, 2004). With the issuance of that rule, paragraph (a)(4) was revised to read: ''Except as provided in paragraph (b) of this section, [the pilot] has logged at least three flights as the sole manipulator of the controls of an aircraft towing a glider or unpowered ultralight vehicle simulating towing flight procedures while accompanied by a pilot who meets the requirements of paragraphs (c) and (d) of this section.'' The word ''or'' was erroneously deleted between the words ''vehicle'' and ''simulating.''

This correction proposes to re-insert the word ''or'' and to make a minor grammatical revision to paragraph (a)(4) so that the rule will read: ''(4) Except as provided in paragraph (b) of this section, [the pilot] has logged at least three flights as the sole manipulator of the controls of an aircraft while towing a glider or unpowered ultralight vehicle, or that person simulates towing flight procedures in an aircraft while accompanied by a pilot who meets the requirements of paragraphs (c) and (d) of this section.''

(40) Proposal to amend the recent flight experience for tow pilots by increasing the time allowed for achieving the required currency to 24 calendar months.

The FAA is proposing to amend § 61.69(a)(6) for persons who serve as tow pilots for glider towing operations by increasing the time limits for when a pilot must have completed the required recent flight experience from 12 to 24 calendar months. This proposal responds favorably to a recommendation from the Soaring Safety Foundation that the existing time limits for recent flight experience may be unnecessarily onerous and cannot be supported by any accident statistics.

(41) Proposal to amend certain special rules affecting U.S. military pilots and former U.S. military pilots who apply for FAA pilot certification.

The FAA proposes to amend § 61.73 by deleting the requirement under § 61.73(b) that current and former pilots of the U.S. Armed Forces must be on active flying status within the past 12 months to qualify for a pilot certificate and rating under these special rules. Under this proposal, U.S. military pilots and former U.S. military pilots would qualify for their civilian pilot certificate and ratings on the basis of their past qualifications as a U.S. military pilot, completion of the military competency aeronautical knowledge test, and accomplishment of a flight review under existing § 61.57.

The FAA proposes new § 61.73(b)(2) to clarify that the aeronautical knowledge test that military pilots are

required to take is the ''military competency'' aeronautical knowledge test.

The FAA proposes new paragraph § 61.73(b)(3) that would change the pilot status for qualifying for a pilot certificate and ratings under these special rules from ''pilot in command'' to ''pilot'' in the U.S. Armed Forces. The U.S. military's pilot qualification and flight time recording documents and procedures have changed since the initial establishment of § 61.73. The U.S. Armed Forces no longer issues pilot in command orders to its graduates who complete its Undergraduate Pilot Training Course. Pilot in command status occurs when military pilots report to their permanent duty assignment and complete additional unit checkouts. However, the FAA has determined that the end-of-course test for graduation from a current U.S. military Undergraduate Pilot Training Course is similar in scope and content as it was for military pilots when § 61.73 was initially established.

The FAA proposes new paragraph § 61.73(c) that would establish that a military pilot of the Armed Forces of a foreign contracting State to the Convention on International Civil Aviation who has been assigned pilot duties (for other than for flight training) with the U.S. Armed Forces would not be required to first hold a current civil pilot license from that contracting State's civil aviation authority. The FAA finds there is no safety reason for the existing requirement. Thus, foreign military pilots who are assigned to U.S. military units would be afforded the opportunity to be issued U.S. commercial pilot certificates and ratings appropriate to their military pilot qualifications.

The FAA proposes to amend existing § 61.73(f) and re-designate it as paragraph (e). The purpose of this proposal is to further clarify that a military pilot may qualify for a type rating to be added to a pilot certificate provided there is a comparable civilian type designation of that military aircraft.

(42) Proposal to establish a new privilege and procedures for issuing flight instructor certificates and ratings to U.S. military instructor pilots.

The FAA proposes to add § 61.73(g) to establish a new privilege and procedure for issuing flight instructor certificates and ratings to U.S. military instructor pilots who graduate from an U.S. military instructor pilot school with an instructor pilot qualification.

The FAA has been participating in a U.S. Department of Labor program that encourages governmental agencies to recognize U.S. military training and qualification. For years, the FAA has recognized the training and qualifications of U.S. military pilots and has issued FAA commercial pilot and instrument rating certification to military rated pilots who graduate from a U.S. Armed Forces undergraduate pilot training school. The FAA now proposes to issue flight instructor certificates and ratings to rated military instructor pilots who graduate from an instructor pilot course of the U.S. Armed Forces. To be issued a flight instructor certificate and rating, a military instructor pilot would have to pass a knowledge test that covers the aeronautical knowledge areas listed under § 61.185(a) of this part that are appropriate to the military instructor pilot ratings and privileges held. This would mean that the applicant would have to pass the appropriate knowledge tests that cover the aeronautical knowledge areas on:

- Fundamentals of instructing, including the learning process, elements of effective teaching, student evaluation and testing, course development, lesson planning, and classroom training techniques;
- Recreational, private, and commercial pilot certification, applicable to the aircraft category for which flight instructor privileges are sought; and
- The aeronautical knowledge areas for the instrument rating applicable to the category for which instrument flight instructor privileges are sought.

Additionally, a U.S. military instructor pilot would be required to show the documentation described in proposed § 61.73(g)(3) to an FAA Aviation Safety Inspector, FAA Aviation Safety Technician, or an authorized Examiner (this would mean, authorized to issue the flight instructor certificate and rating(s) to a U.S. military instructor pilot).

(43) Proposal to clarify, simplify, and list the documents required for proving rated U.S. military pilot status to qualify for FAA pilot certification.

Proposed § 61.73(h) would clarify, simplify, and list the documents required for proving a current or former rated military pilot is qualified for FAA pilot certification. The purpose is to respond to inquiries received by the FAA on what documents are required to show proof as a rated military pilot in the U.S. Armed Forces.

(44) Proposal to require that a foreign pilot who applies for an U.S. private pilot certificate on the basis of the person's foreign pilot license must hold at least a foreign private pilot license.

Proposed § 61.75(a) and (b) would require that a foreign pilot who applies for an U.S. private pilot certificate on the basis of that person's foreign pilot license hold at least a foreign private pilot license. Additionally, the proposal would require the foreign pilot license to be ''valid,'' which means it has not been surrendered, suspended, revoked, or expired.

Before the August 4, 1997, amendments to part 61 (hereinafter to be referred to as the ''1997 Amendments''), § 61.75 provided that to apply for a U.S. pilot certificate on the basis of a foreign pilot license, the pilot had to hold a foreign pilot license at the level of private pilot certificate or higher. The foreign pilot license also had to be issued by a member State to the Convention on International Civil Aviation. Under the 1997 Amendments, the requirement that the foreign pilot license to be at the level of private pilot certificate or higher was deleted without considering that there are some foreign countries that issue pilot certificates below the private pilot license (i.e., recreational pilot licenses, sport pilot licenses, or private pilot licenses with a limitation that restricts the exercising of the foreign pilot license to a particular foreign country). (See 62 FR 16257 and 16321). Therefore, the FAA proposes to amend § 61.77 (a) and (b) to clarify that the foreign pilot license used to apply for the U.S. private pilot certificate under the provisions of this section must be at a private pilot license level or higher, without geographical restrictions, or otherwise meets at least the private pilot licensing requirements of Annex 1 of the International Civil Aviation Organization.

(45) Proposal to permit the issuance of a U.S. private pilot certificate to foreign pilots who hold a U.S. student pilot certificate.

The FAA proposes to amend § 61.75(b)(3) to clarify that a foreign person may apply for a U.S. private pilot certificate if that person holds a U.S. student pilot certificate.

Prior to the 1997 Amendments, § 61.75(b)(3) allowed a U.S. pilot certificate to be issued to the holder of a foreign pilot certificate if ''he [did] not hold a U.S. pilot certificate of private pilot grade or higher.'' When the FAA amended § 61.75(b)(3), it deleted the words ''of private pilot grade or higher'' to accommodate the recreational pilot

certificate without considering that this change would seem to eliminate foreign persons from being able to hold U.S. student pilot certificates. This was unintentional. Thus, under this proposal, we want to clarify that a foreign person may hold a U.S. student pilot certificate and apply for a § 61.75 U.S. private pilot certificate. Furthermore, it should be understood that foreign persons may apply for and receive U.S. pilot certificates through the standard part 61 pilot certification process or under the special provisions and procedures of § 61.75.

(46) Proposal to clarify that an aircraft rating on a pilot certificate based on a foreign pilot license is issued for private pilot certificate privileges only.

The FAA proposes to amend § 61.75(c) to clarify that an aircraft rating on a U.S. pilot certificate that was issued on the basis of rating(s) held on the person's foreign pilot license is issued for private pilot privileges only.

Before the 1997 Amendments, a person who held a current commercial pilot license or higher level foreign pilot license issued by a contracting State to the Convention on International Civil Aviation (ICAO) could apply for and be issued U.S. commercial pilot certificate with the appropriate ratings. When § 61.75 was amended, the rule provided for the issuance of a U.S. pilot certificate at the private pilot certification level only. Specifically, § 61.75(a) permits a holder of a current foreign pilot license issued by a contracting State to ICAO to ''apply for and be issued a private pilot certificate with the appropriate ratings when the application is based on the foreign pilot license * * *.'' However, there is some confusion as to whether § 61.75(c) applies to additional ratings for those foreign pilots who were issued U.S. pilot certificates under § 61.75. Therefore, to further clarify § 61.75(c) so that it conforms to the existing requirements of § 61.75(a), which limits the issuance of the U.S. pilot certificate to the private pilot certificate, the FAA proposes to add the phrase ''for private pilot privileges only'' to § 61.75(c).

(47) Proposal to correct an error under § 61.75 that states ''U.S. private pilot certificate'' when it should state ''U.S. pilot certificate''.

Before the 1997 Amendments, the FAA had issued U.S. commercial pilot certificates to holders of foreign commercial pilot licenses or higher who applied for our U.S. commercial pilot certificate and ratings on the basis of § 61.75. When the FAA amended paragraph (e) under § 61.75, the rule was changed to read a person who receives a ''U.S. private pilot certificate.'' The rule, however, needs to account for those outstanding foreign pilots who hold U.S. commercial pilot certificates. Accordingly, the FAA proposes to amend:

- Paragraph (e) by changing the phrase ''U.S. private pilot certificate'' to ''U.S. pilot certificate.''
- Paragraph (e)(1) by amending the phrase ''U.S. private pilot privileges'' to ''with the pilot privileges authorized by this part and the limitations placed on that U.S. pilot certificate.''
- Paragraph (e)(4) by changing the phrase ''U.S. private pilot certificate'' to read ''U.S. pilot certificate.''
- Paragraph (f) of § 61.75 in two places by changing the phrase ''may be used as basis for issuing a U.S. private pilot certificate'' to read ''may be used as basis for issuing a U.S. pilot certificate.'' And in the second sentence change the phrase ''used as a basis for issuing a U.S. private pilot certificate'' to ''used as a basis for issuing a U.S. pilot certificate.''
- The title phrase of paragraph (g) under § 61.75; where it states ''Limitation placed on a U.S. private pilot certificate,'' it would read ''Limitation placed on a U.S. pilot certificate.'' The FAA proposes to amend paragraph (g) in two other places by revising the phrase that reads ''A U.S. private pilot certificate issued under this section'' to read ''A U.S. pilot certificate issued under this section.'' And, where it reads ''upon which the issuance of the U.S. private pilot certificate,'' it would be changed to read ''upon which the issuance of the U.S. pilot certificate.''

(48) Proposal to clarify the requirements for issuance of Special Purpose Pilot Authorizations.

The FAA proposes to amend various paragraphs under § 61.77 to address some confusion about the special purpose pilot authorizations and correct some inconsistencies. The special purpose pilot authorization is a letter issued by the FAA to a foreign pilot for the purpose of performing pilot duties on a civil aircraft of U.S. registry that is leased to a person who is not a citizen of the United States and for carrying persons or property for compensation or hire.

Ever since § 61.77 was last revised under the 1997 Amendments, there has been confusion as to who could be issued a special purpose pilot authorization and what kind of operations are permitted under a special purpose pilot authorization. See 62 FR 16220. For example, the FAA discovered that a foreign corporate operator had been issued special purpose pilot authorizations in error. The FAA never intended that special purpose pilot authorizations be issued to foreign corporate operators that are not performing the carriage of persons or property for compensation or hire. Foreign pilots involved in part 91 operations have the ability to apply for and receive U.S. pilot certificates in accordance with § 61.75 or through the standard part 61 pilot certification process. Therefore, the FAA proposes to add § 61.77(a)(2)(i) through (iv) to clarify what kind of operations foreign pilots are required to be performing to be eligible for a special purpose pilot authorization.

Additionally, the FAA determined that the citizenship or resident status requirement under existing § 61.77(b)(1) conflicts with the policy authorizing holders of foreign pilot licenses to serve as pilots in U.S. registered aircraft for the kinds of flight operations covered by special purpose pilot authorizations. Thus, the citizenship or resident status requirement is unnecessary. The proposal would delete the phrase ''from which the person holds citizenship or resident status'' under § 61.77(b)(1) because some pilots of foreign air carriers do not even hold citizenship or resident status in the country from which they hold their pilot licenses, as is the case of U. S. citizens who serve as flight crewmembers aboard U.S. registered aircraft for foreign air carriers. Therefore, we have determined this requirement in § 61.77(b)(1) is burdensome and unnecessary.

Furthermore, the FAA proposes to delete § 61.77(b)(5) (i.e., a recent flight experience requirement under § 61.57 to be issued a special purpose pilot authorization) because the normal procedure for issuing special purpose pilot authorizations requires the foreign air carriers only to send the application and copies of the person's foreign pilot and medical licenses to the FAA and does not require the airman to appear in person to the FAA. The FAA has no way of determining whether the pilot has complied with § 61.57 currency requirements. Therefore, the FAA proposes to delete existing § 61.77(b)(5).

(49) Proposal to require a student pilot certificate to apply for a recreational pilot certificate.

Proposed § 61.96(b)(9) would require a person to hold a student pilot certificate to apply for a recreational pilot certificate. The FAA believes the rules implicitly require a person to hold a student pilot certificate before making application for a recreational pilot certificate. To apply for a recreational

pilot certificate, an applicant must log at least 3 hours of solo flight time. See 14 CFR § 61.99(b). To operate an aircraft in solo flight, the person must hold at least a student pilot certificate. See 14 CFR § 61.87(l)(1). However, to avoid confusion, we are proposing to explicitly require a person to hold a student pilot certificate before applying for a recreational pilot certificate.

(50) Proposal to allow recreational pilot certificate holders to act as PIC in rotorcraft with more than a 180 horsepower powerplant.

Currently, holders of recreational pilot certificates are limited from acting as PIC of an aircraft that is certificated ''with a powerplant of more than 180 horsepower.'' The purpose for the more than 180 horsepower powerplant limitation is to keep recreational pilot certificate holders in slower, less complex aircraft. The FAA has determined that the 180 horsepower powerplant limitation is not appropriate for helicopters or gyroplanes. For example, the Bell 47 is a 1950-era helicopter that is simple in design and quite easy to fly. However, because some Bell 47 helicopters' engines exceed the 180 horsepower rating, holders of recreational pilot certificates are restricted from acting as PIC of those helicopters. Therefore, the FAA proposes to amend § 61.101(e)(1)(iii) to exclude aircraft that are certificated in the rotorcraft category from the 180 horsepower powerplant limitation. The 180 horsepower powerplant limitation would only apply to aircraft certificated in the airplane category.

(51) Proposal that a person must hold either a student pilot certificate or a recreational pilot certificate to apply for a private pilot certificate.

Proposed § 61.103(j) would require a person to hold either a student pilot certificate or a recreational pilot certificate to apply for a private pilot certificate.

The rules implicitly require a person to either hold a student pilot or recreational pilot certificate before making application for a private pilot certificate. To apply for a private pilot certificate, an applicant must log at least 10 hours of solo flight time. See 14 CFR § 61.109. To operate an aircraft in solo flight, the person must hold at least a student pilot certificate. See 14 CFR § 61.87(l)(1). However, to address any possible confusion, the proposed change would explicitly require that a person hold either a student pilot certificate or a recreational pilot certificate to apply for a private pilot certificate.

(52) Proposal to amend the solo cross-country mileage requirements for consistency with the mileage requirements under the definition of ''cross-country.''

The FAA proposes to amend § 61.109(a)(5)(ii), (b)(5)(ii), and (e)(5)(ii) to standardize use of the term ''cross-country'' throughout part 61. Under § 61.1(b)(3)(ii), the FAA defines the distance of a cross-country flight, in pertinent part, as ''more than 50 nautical miles.'' Under § 61.109(a)(5)(ii), (b)(5)(ii), and (e)(5)(ii), the regulations erroneously state, ''*of at least* 50 nautical miles'' (emphasis added). The proposal amends all definitions of ''cross-country'' to read ''more than 50 nautical miles.''

(53) Proposal to amend the solo cross-country mileage requirement for the private pilot-helicopter rating.

The FAA proposes to amend § 61.109(c)(4)(ii) so the cross-country distance requirement for the helicopter rating at the private pilot certification level conforms to the ICAO requirements for the helicopter rating and also conforms to the definition of cross-country distance under § 61.1(b)(3)(v).

The existing solo cross-country distance requirement under § 61.109(c)(4)(ii) for the private pilot-helicopter rating states that the solo cross-country flight must be ''at least 75 nautical miles total distance.'' The ICAO requirements, set forth under Annex I, paragraph 2.7.1.3.2 require that the total distance be at least 100 nautical miles total distance. Therefore, the FAA proposes to amend the private pilot-helicopter rating requirement to conform to the ICAO requirement.

Additionally, the helicopter rating for private pilot certification under § 61.109(c)(4)(ii) erroneously states ''of at least 25 nautical miles.'' The FAA proposes to amend the rules to read ''more than 25 nautical miles'' to conform to the definition of ''cross-country'' under § 61.1(b)(3)(v).

(54) Proposal to amend the solo cross-country mileage requirement for the private pilot-gyroplane rating.

The FAA proposes to amend § 61.109(d)(4)(ii) to conform the cross-country distance for the gyroplane rating at the private pilot certification level to the ICAO requirements for the gyroplane rating and to § 61.1(b)(3)(v).

The existing solo cross-country distance requirement for the private pilot-gyroplane rating states that the solo cross-country flight must be ''at least 75 nautical miles total distance.'' The ICAO requirements, set forth under Annex I, paragraph 2.7.1.3.2, require that the total distance be at least 100 nautical miles total distance. Therefore, the FAA proposes to amend the cross-country distance for the private pilot-gyroplane rating to conform to the ICAO cross-country distance requirement for the gyroplane rating at the private pilot certification level.

Additionally, the gyroplane rating for private pilot certification under § 61.109(d)(4)(ii) erroneously states ''of at least 25 nautical miles.'' The proposal would amend the rules to read ''more than 25 nautical miles'' in conformance with the definition of ''cross-country'' under § 61.1(b)(3)(v).

(55) Proposal to add requirements for ground reference maneuvers for commercial pilot certification—gyroplane rating.

Proposed § 61.127(b)(4)(vi) would require training in ''ground reference maneuvers'' for the gyroplane rating at the commercial pilot certification level. When the FAA amended the area of operations under § 61.127 for the gyroplane rating at the commercial pilot certification level, the reference to ''ground reference maneuvers'' was deleted. After further review of that decision, the FAA proposes to re-instate ''ground reference maneuvers'' as an area of operation for the gyroplane rating at the commercial pilot certification level because it is believed by both the agency and training providers to be an important training and certification task. The ground reference maneuvers must include at least ''eights around a pylon,'' ''eights along a road,'' ''rectangular course,'' ''S-turns,'' and ''turns around a point.''

(56) Proposal to delete the requirement for the ''ground reference maneuver'' in the area of operation for commercial pilot certification—powered-lift rating.

The FAA proposes to delete the requirement for the ''ground reference maneuver'' area of operation under § 61.127(b)(5)(vii) for the powered-lift rating at the commercial pilot certification level. An FAA Flight Standardization Board determined the ''ground reference maneuver'' is not appropriate for the powered-lift rating at the commercial pilot certification level.

(57) Proposal to clarify the tasks required for ''instrument training'' for commercial pilot certification—airplane single-engine rating.

Ever since the instrument aeronautical experience requirement was adopted under § 61.129 by the 1997 Amendments, we have received

questions about what is the appropriate training for instrument aeronautical experience. Therefore, we are proposing § 61.129(a)(3)(i) to clarify the tasks required for ''instrument aeronautical experience'' for the airplane single-engine rating at the commercial pilot certification level. Under this proposal, ''instrument aeronautical experience'' would include at least ''10 hours of instrument training, of which at least five hours must be in a single-engine airplane and must include training using a view-limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems.''

(58) Proposal to clarify the tasks required for ''instrument training'' for commercial pilot certification—airplane multiengine rating.

As discussed above in paragraph 57, the regulated community has asked the FAA to clarify what is considered appropriate training to cover instrument aeronautical experience. Therefore, we are proposing § 61.129(b)(3)(i) to clarify the tasks required for ''instrument training'' for the airplane multiengine rating at the commercial pilot certification level. This proposal would include at least ''10 hours of instrument training, of which at least five hours must be in a multiengine airplane and must include training using a view-limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems.''

(59) Proposal to allow use of a flight simulator, flight training device, or PCATD for some of the instrument training required for commercial pilot certification—helicopter rating.

Proposed § 61.129(c)(3)(i) would allow the instrument training that is required for the helicopter rating at the commercial pilot certification level to be performed in an aircraft, flight simulator, flight training device, or PCATD.

Additionally, the FAA proposes to clarify, in response to questions raised by the regulated community, the training required to satisfy instrument training for the helicopter rating at the commercial pilot certification level. The instrument training would include at least ''5 hours of instrument training and must include training using a view-limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems.''

(60) Proposal to allow use of a flight simulator, flight training device, or PCATD for some of the instrument training required for commercial pilot certification—gyroplane rating.

Proposed § 61.129(d)(3)(i) would reduce the number of hours of instrument training required from 5 to 2.5 hours, and allow the instrument training required for the gyroplane rating at the commercial pilot certification level to be performed in an aircraft, flight simulator, flight training device, or PCATD. The FAA believes that the training for the commercial pilot—gyroplane rating would be more useful if the training focused on other tasks. We recognize that gyroplanes are normally not sufficiently equipped for instrument flight operations and are flown mostly in day-VMC conditions.

Additionally, the FAA proposes to clarify, because of the number of questions we have received, the instrument training required to satisfy the ''instrument training'' required for the gyroplane rating at the commercial pilot certification level. The instrument training would have to include at least 2.5 hours of instrument training, including training using a view-limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems.

(61) Proposal to clarify the tasks required for ''instrument training'' for commercial pilot certification—powered-lift rating.

To respond to questions we have received regarding what tasks are required to constitute ''instrument training,'' we are proposing § 61.129(e)(3)(i) for the powered-lift rating at the commercial pilot certification level. This proposal would require at least ''10 hours of instrument training, of which at least five hours must be in a powered-lift and must include training using a view-limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems.''

(62) Proposal to allow cross-country training flights to be performed under VFR or IFR.

The FAA proposes to amend § 61.129(a)(3)(iii) and (iv), (b)(3)(iii) and (iv), (c)(3)(ii) and (iii), (d)(3)(ii), (e)(3)(ii) and (iii), (g)(4)(ii) and (iii) to allow the required cross-country flights for commercial pilot certification to be performed under VFR or IFR.

Currently, § 61.129 requires one cross-country flight in day VFR conditions and one cross-country flight in night VFR conditions. Since establishing these cross-country training requirements, the FAA has received comments from training schools requesting that we allow flights to be performed under IFR. According to the schools, most applicants for commercial pilot certification—airplane rating and some applicants for the helicopter rating are enrolled in an instrument rating course at the same time they are undergoing their commercial pilot certification training. Thus, it would make sense to allow the cross-country training requirements under § 61.129 to be performed under IFR. The FAA agrees and is proposing to allow the cross-country training requirements under § 61.129 for commercial pilot certification for the airplane, rotorcraft, powered-lift, and airship ratings to be performed under VFR or IFR.

(63) Proposal to delete the night training requirement for commercial pilot certification—gyroplane rating.

The FAA proposes to delete the night cross-country aeronautical experience requirement under § 61.129(d)(3)(iii) for the gyroplane rating at the commercial pilot certification level. The FAA is proposing to replace the night cross-country aeronautical experience requirement with 2 hours of flight training at night that consists of ten takeoffs and ten landings at an airport. The reason for this proposal is that night-time training for the gyroplane rating at the commercial pilot certification level would be more useful and more safely conducted in the vicinity of an airport. Gyroplanes have limited equipment and systems for night-time operations, and a cross country flight raises some added safety concerns in gyroplanes with their limited instrument flight and navigation capabilities.

(64) Proposal to amend the commercial pilot certification solo aeronautical experience requirements to allow the aeronautical experience to be performed either solo or while performing the duties of PIC with an instructor on board.

The FAA proposes to amend § 61.129(a)(4), (c)(4), (d)(4), (e)(4), and (g)(2) to allow the commercial pilot certification aeronautical experience to be conducted either solo or while performing the duties of PIC with an instructor on board. Even though the commercial pilot certification aeronautical experience requirements for a multiengine airplane rating allow

the aeronautical experience requirements to be conducted either solo or with an authorized instructor on board (see § 61.129(b)(4)), the solo aeronautical experience requirements were purposely written differently for other aircraft categories. This is because comments received in response to Notice No. 95–11 (60 FR 41160, August 11, 1995) indicated that some insurance policies prohibit persons who do not already hold the multiengine airplane category and class rating on their pilot certificate from flying solo in multiengine airplanes.

Since the adoption of § 61.129, the FAA has learned that some operators of the other categories and classes of aircraft also have the same insurance policy restrictions. Many of these aircraft operators also believe the solo provisions for commercial pilot certification—multiengine airplane rating that permit the training to be performed solo or with an instructor to be on board while the applicant is performing the duties of PIC in a multiengine airplane is beneficial in teaching crew resource management. Some operators have said that they would be agreeable to their commercial pilot applicants practicing abnormal and emergency procedures if the applicant's instructor was on board. Therefore, the FAA proposes to allow commercial pilot certification for the single-engine airplane, helicopter, gyroplane, powered-lift, and airship ratings to be performed either solo or while performing the duties of PIC with an authorized instructor aboard.

(65) Proposal to clarify the tasks required for the ''instrument training'' for commercial pilot certification—airship rating.

Ever since the instrument aeronautical experience requirement was adopted under § 61.129 by the 1997 Amendments, we have received questions about what is considered appropriate training to cover instrument aeronautical experience. Proposed § 61.129(g)(3)(i) would clarify the tasks required for ''instrument training'' for the airship rating at the commercial pilot certification level to include the use of a view-limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems.

(66) Proposal to revise the ATP eligibility requirements for persons holding foreign commercial or ATP pilot licenses.

The FAA proposes to make minor revisions to § 61.153(d)(3), the ATP eligibility requirements for persons holding foreign commercial or ATP pilot licenses, by including the requirement that the foreign commercial or ATP pilot license must contain no geographical limitations. The FAA has determined that a foreign applicant for the U.S. ATP certificate should not be qualified if the foreign ATP license has a geographical limitation.

(67) Proposal to move the provisions for use and limitations of a flight simulator and flight training device from the ATP flight proficiency requirements of § 61.157 to the new proposed § 61.64 and to make other clarifying revisions.

The FAA proposes to reword proposed § 61.157(g) (existing paragraph (j)) to clarify the use of an aircraft on a practical test for a type rating that is not capable of instrument maneuvers and procedures and the issuance of a type rating with a VFR limitation under those circumstances. This proposal parallels the proposed change under § 61.63(e).

Additionally, this proposal would remove paragraphs (g), (h), and (i) that address the use and limitations of a flight simulator and flight training device and move those requirements under proposed § 61.64.

(68) Proposal to allow an applicant for a type rating at the ATP certification level in a multiengine, single-pilot station airplane to meet the requirements of this part in a multi-seat version of a multiengine airplane.

Proposed § 61.157(h) would require an applicant for a type rating at the ATP certification level for a multiengine airplane with single-pilot station to perform the practical test in the multi-pilot seat version of that multiengine airplane. Or, the practical test may be performed in the single-seat version of that airplane if the Examiner is in a position to observe the applicant during the practical test in the case where there is no multi-seat version of that multiengine airplane. This proposal parallels proposed § 61.63(f) for a type rating in a multi-engine airplane with single-pilot station at other than the ATP certification level.

(69) Proposal to allow an applicant for a type rating at the ATP certification level in a single-engine, single-pilot station airplane to meet the requirements of this part in a multi-seat version of a single-engine airplane.

Proposed § 61.157(i) would require an applicant for a type rating at the ATP certification level for a single engine airplane with single-pilot station to perform the practical test in the multi-pilot seat version of that single engine airplane. Or, the practical test may be performed in the single-seat version of that airplane if the Examiner is in a position to observe the applicant during the practical test in the case where there is no multi-seat version of that single engine airplane. This proposal parallels proposed § 61.63(g) for a type rating in a single engine airplane with single-pilot station at other than the ATP certification level.

(70) Proposal to allow U.S. military flight engineers to credit flight engineer time when applying for an ATP pilot certificate.

Proposed § 61.159(c)(3) would allow a U.S. military flight engineer to credit flight engineer time toward the aeronautical experience requirements for an ATP certificate. Under existing § 61.159(c)(2), a flight engineer who is employed by part 121 operator is allowed to credit flight engineer time toward an ATP certificate. Thus, the proposed change would give military flight engineers the same opportunity.

(71) Proposal to conform ATP aeronautical experience requirements to ICAO requirements.

The FAA proposes to amend § 61.159(d) and (e) to conform to current ICAO requirements for the ATP aeronautical experience requirements for the airplane category as stated in paragraphs 2.1.9.2 and 2.5.1.3 of the Personnel Licensing, ICAO Annex 1, to the Convention on International Civil Aviation.

For the past few years, the FAA has received inquiries as to whether applicants for an ATP certificate with the ICAO limitation ''Holder does not meet the pilot in command aeronautical experience requirements of ICAO'' must have 1,500 hours of total time as a pilot or 1,200 hours of flight time as a pilot as stated in existing § 61.159(d)(2). The current FAA regulation applies an obsolete ICAO ATP airplane aeronautical experience rule. Before 1974, ICAO only required 1,200 hours of total flight time to qualify for an ATP certificate in the airplane category. In 1974, ICAO amended its ATP aeronautical experience requirements for the airplane category to require 1,500 hours of flight time as a pilot and retained the additional qualifying aeronautical experience requirements of only permitting 50 percent of an applicant's second-in-command time to be credited and none of an applicant's flight-engineer time could be credited (see paragraphs 2.1.9 and 2.5.1.3 of ICAO Annex 1, Personnel Licensing). This proposed change would conform

the FAA regulations to the existing ICAO standard.

(72) Proposal to delete the flight instructor-glider flight proficiency maneuver known as the ''go around'' task.

The FAA proposes to delete the flight instructor-glider flight proficiency maneuver known as the ''go around'' under § 61.187(b)(6)(vii) because non-powered gliders are not capable of a go-around maneuver.

(73) Proposal to establish flight instructor qualifications for providing instrument training in flight at the commercial pilot and ATP certification levels.

It is necessary to clarify the flight instructor qualifications for those who give instrument training at the commercial pilot and ATP certification levels. For example, existing § 61.129 requires 10 hours of instrument training for the airplane-single-engine, airplane-multiengine, helicopter, gyroplane, powered-lift, and airship ratings at the commercial pilot certification levels. Yet, under existing § 61.195(c), the FAA established flight instructor instrument qualification requirements only for flight instructors who give instrument training for ''the issuance of an instrument rating or a type rating not limited to VFR.'' The existing regulation does not specifically address the flight instructor qualifications for providing instrument training for the commercial pilot and ATP certification levels. Therefore, the FAA proposes to amend § 61.195(c) to establish that a flight instructor who provides instrument training required at the commercial pilot and airline transport pilot certification levels must hold an instrument rating on both his or her pilot and flight instructor certificates that are appropriate to the category and class of aircraft in which instrument training is being provided.

(74) Proposal to delete an endorsement requirement on a student pilot certificate for solo flight into Class B airspace.

The FAA proposes to delete the requirement under § 61.195(d)(3) that a flight instructor must endorse a student pilot's *certificate* to authorize a solo flight in a Class B airspace area or at an airport within Class B airspace. Under existing § 61.95(a)(2) and (b)(2), a student pilot is required only to have his or her *logbook* endorsed when seeking authorization to perform solo flight in Class B airspace or at an airport within Class B airspace. This change would make the flight instructor endorsement requirement parallel the student pilot endorsement requirements of existing § 61.95(a)(2) and (b)(2).

(75) Proposal to establish flight instructor night vision goggle qualification requirements for a flight instructor.

The FAA proposes to add paragraph (k) to § 61.195 to establish qualification requirements for a flight instructor to give PIC qualification and recent training for NVG operations. The FAA proposes that an instructor who gives PIC qualification and recent training for NVG operations must meet the following eligibility requirements:

- Has a pilot and flight instructor certificate with the applicable category and class rating for the training.
- If appropriate, has a type rating on his or her pilot certificate for the aircraft.
- Is pilot-in-command qualified for NVG operations, in accordance with § 61.31(l).
- Has logged 100 NVG operations as the sole manipulator of the controls.
- Has logged 20 NVG operations as sole manipulator of the controls in the category and class, and type, if class and type is appropriate, of aircraft that the will be given in.
- Is qualified and current to act as a pilot in command in NVG operations under § 61.57(f) or (g).
- Has a logbook endorsement from an FAA Aviation Safety Inspector or a person who is authorized by the FAA to provide that logbook endorsement that states the flight instructor is authorized to perform the NVG pilot in command qualification and recent flight experience requirements under § 61.31(l) and § 61.57(f) and (g).

The FAA has developed these requirements in consultation with industry representatives.

(76) Proposal to allow only a ground instructor with an instrument rating to give ground training for the issuance of an instrument rating and instrument proficiency check and a recommendation for the knowledge test required for an instrument rating.

The FAA proposes to amend § 61.215(b) to provide that only a certified ground instructor with an instrument rating may give ground training for the issuance of an instrument rating and instrument proficiency check and a recommendation for the knowledge test required for an instrument rating. Existing § 61.215(b) mistakenly permits a person who holds only an advanced ground instructor (AGI) certificate to give instrument training. The aeronautical knowledge subject areas for the AGI certificate do not cover instrument subjects on the knowledge test. Only the aeronautical knowledge subject areas for the instrument ground instructor (IGI) certificate cover instrument subjects. Authorizing instrument privileges to a holder of only an AGI certificate is not appropriate.

(77) Proposal to clarify the recent experience requirements for ground instructors.

The FAA proposes to revise § 61.217(a) to clarify the recent experience requirements for ground instructors, particularly the meaning of the phrase ''served for at least three months as a ground instructor.'' This proposal would delete this phrase and establish more general criteria for recent experience requirements. The intent is to recognize a person's employment or activity as a ground instructor without that person being expected to maintain some kind of a time sheet or log to show that he or she ''served for at least three months as a ground instructor.''

Furthermore, under this proposal, the FAA would amend § 61.19(e) so that the flight instructor certificate's duration period is linked to these currency requirements.

(78) Proposal to establish night vision goggle instrument and equipment requirements for night vision goggle operations.

The FAA proposes to add § 91.205(h) to establish NVG instruments and equipment requirements for NVG operations. This proposal is similar to how the FAA requires certain instruments and equipment for VFR (day), VFR (night), and IFR operations under existing § 91.205. This proposal would state that for NVG flight operations, the following instruments and equipment are required to be installed in the aircraft, are required to be functioning in a normal manner, and must be approved for use by the FAA:

- Instruments and equipment specified in § 91.205(b), and, for night flight, instruments and equipment specified in § 91.205(c).
- NVGs.
- Interior and exterior aircraft lighting system required for use for NVG flight operations.
- Two-way radio communications system.
- Gyroscopic pitch and bank indicator (artificial horizon).
- Generator or alternator of adequate capacity for the required instruments and equipment.

(79) Proposal to clarify that the ''counters'' for a pilot school's or provisional pilot school's 80 percent or higher pass rate must be 10 different people.

The FAA proposes to amend § 141.5 to clarify the meaning of the phrase ''a quality of training pass rate of at least 80 percent.'' The purpose is to establish that the ''counters'' for the required 80 percent or higher school pass rate must be taken from 10 different graduates, meaning 10 different people.

A graduate can only be counted once in computing the 80 percent pass rate on the first attempt. The wording of existing § 141.5 has raised questions concerning how many graduates have to have graduated. Some have argued that one person could be counted as all 10 graduates. The FAA disagrees and proposes to amend § 141.5 to clarify that the 10 graduates must be 10 different people. The FAA believes that requiring the pass rate to be calculated from 10 different graduates is a better measure of the school's quality of training and provides a more realistic view of the school's pass rate.

(80) Proposal to clarify pilot school examining authority.

The FAA has found it necessary to revise the language under § 141.9 because some have misunderstood the rule and believe that when the FAA issues examining authority to a pilot school, it authorizes examining authority for all the training courses of that school. This is not true. The FAA provides examining authority on a course-by-course basis. This would mean, if the pilot school makes specific application for a course, the FAA will issue examining authority if it meets the qualification requirements of § 141.63.

Furthermore, the FAA only issues examining authority to a pilot school that meets the requirements of subpart D of part 141, as opposed to a provisional pilot school. Under § 141.63, a provisional pilot school is not qualified to receive examining authority.

(81) Proposal to reduce the number of student enrollments to qualify for a check instructor position.

The FAA proposes to amend § 141.33(d)(2) to reduce the number of student enrollments from 50 students to 10 students in a part 141 pilot school to qualify for check instructor positions. The FAA is responding positively to recommendations it has received from the pilot school industry to authorize the use of check instructors in some of the smaller pilot schools.

The FAA initially established the figure of 50 student enrollments when it promulgated § 141.33(d)(2) to provide for those flight schools that train large numbers of students. (See 62 FR 16350, April 4, 1997) The position of check instructor was established because the FAA understands it is nearly impossible to expect chief instructors and assistant chief instructors to perform all the required stage checks, end-of-course tests, and instructor proficiency checks in large pilot schools. However, since the adoption of § 141.33(d)(2), a number of moderate sized flight schools have informed the FAA that they have sufficient student activity to justify check instructors. For example, one chief instructor commented that his school has 15 student enrollments and each student requires six stage checks and one end-of-course test. Thus, he is required to perform 105 tests on his school's 15 student enrollments. Another chief instructor commented that he has 15 stage and end-of-course tests per student in his part 141 approved course. This computes to a total of 300 tests he must perform.

The FAA has made it clear that it did not expect the chief and assistant chief instructors to delegate all their duties and responsibilities to the check instructors See 62 FR 16350, April 4, 1997. The FAA encourages and expects chief and assistant chief instructors to continue to have direct experience with monitoring the quality of instruction and student performance in their schools. The FAA expects the school's chief and assistant chief instructors to continue checking their instructors' quality of training and their students' performance. However, the FAA recognizes that this can be done by sampling instructor proficiency and student performance. The FAA does not believe it is necessary to establish a regulatory requirement on the numbers of stage checks, end-of-course tests, and instructor proficiency checks that each chief instructor or assistant chief instructor must perform. That decision should be left to the school's management. Therefore, the FAA proposes to reduce the number of student enrollments to qualify for the creation of a check instructor position to ten students. A minimum of ten student enrollments would allow for check instructor positions to be designated for the medium-sized and the smaller pilot schools.

(82) Proposal to accommodate the use of foreign registered aircraft for part 141 training facilities that are located outside of the United States.

The FAA proposes to amend § 141.39(b) to allow the use of foreign registered aircraft for part 141 training facilities that are located outside of the U.S. and conduct training outside of the U.S.

Under Amendment No. 141–11 (63 FR 53532, October 5, 1998) , the FAA allowed part 141 schools to establish training facilities outside the United States. The FAA has received several inquiries as to whether it is permissible to use foreign registered aircraft when the schools' training facilities are located outside of the United States. Further, questions have arisen whether it is permissible for these pilot schools' training facilities to adhere to maintenance and inspection standards established by a foreign aviation authority and still be in compliance with § 141.39.

Pilot schools are currently required to use civil aircraft of U.S. registry. Existing § 141.39 only allows a pilot school's maintenance and inspection standards to be maintained under part 91, subpart E. The FAA, however, wants to accommodate the use of foreign registered aircraft and foreign maintenance and inspection standards established by a foreign aviation authority in pilot schools located outside of the United States when the training is conducted outside the United States. The FAA does not believe there are any potential adverse effects on aviation safety by proposing these changes.

(83) Proposal to delete § 141.53(c)(1) because the requirement is no longer needed.

The FAA proposes to delete the provision under § 141.53(c)(1) that states ''A training course submitted for approval prior to August 4, 1997 may, if approved, retain that approval until 1 year after August 4, 1997'' because the requirement is no longer needed. All courses under part 141 had to receive their re-approval as of August 4, 1998, so the provision is obsolete.

(84) Proposal to clarify the requirement for approval of a training course.

For clarification purposes, the FAA proposes to change the phrase ''the practical or knowledge test, or any combination thereof'' under § 141.55(e)(2)(ii) to read ''the practical or knowledge test, as appropriate.'' When a pilot school requests final approval for a knowledge training

course, at least 80 percent of their students must have passed the knowledge test on the first attempt (knowledge test means ''a test on the aeronautical knowledge areas required for an airman certificate or rating that can be administered in written form or by a computer''). When a pilot school requests final approval for a flight training course, at least 80 percent of their students must have passed the practical test on the first attempt (practical test means ''a test on the areas of operations for an airman certificate, rating, or authorization that is conducted by having the applicant respond to questions and demonstrate maneuvers in flight, in a flight simulator, or in a flight training device''). The current language is confusing and the testing requirements have been misapplied.

(85) Proposal to clarify the rules for crediting previous training when transferring to a part 141 pilot school.

The FAA proposes to clarify § 141.77(c) for crediting previous training based on a proficiency test or a knowledge test. Existing § 141.77(c) provides that, for students who transfer to a part 141 pilot school, crediting for previous training must be based on ''a proficiency test or knowledge test, or both.'' This language has generated questions about whether it is possible to credit previous flight training strictly on the basis of knowledge test results. The answer is no. The FAA never intended to allow a transfer student to be awarded flight training credit purely on the basis of completing a knowledge test. Nor did the FAA intend to allow a transfer student to be awarded ground training credit on the basis of completing a proficiency test.

A student who transfers to a part 141 pilot school and requests credit for previous flight training must complete a proficiency test that is given by the receiving pilot school's chief instructor or delegated check instructor. A student who transfers to a part 141 pilot school and requests credit for previous ground training, must complete a knowledge test that is given by the receiving pilot school's chief instructor or delegated check instructor.

(86) Proposal to allow the chief instructor to delegate certain tasks to a recommending instructor.

Under this proposed change, the FAA would allow a chief instructor to delegate certification of a student's training record, graduation certificate, stage check, end-of-course test report, and recommendation for course completion to an assistant chief instructor or recommending instructor. The reason for this proposed change is to allow pilot schools to make better use of chief instructors' time and management responsibilities.

(87) Proposal to amend the eligibility requirement for enrollment in the flight portion of a private pilot certification course.

Under the current rules, the FAA requires a person hold at least a recreational or student pilot certificate before enrolling in the *flight portion* of the private pilot certification course. This means that a person must complete his or her medical licensing before beginning flight training. Many pilot schools have indicated that they would like the rule changed because (1) it affects their ability to credit orientation flights towards overall training requirements (it is common practice when a person inquires about flight training to provide that person a local orientation flight); and (2) for those pilot schools that are located in remote areas, it may take a week or two for a student to get an appointment for a flight physical.

The FAA has evaluated the request made by the pilot schools, and we do not believe there are any safety concerns with accommodating the recommendation. Thus, the FAA is proposing that under part 141, appendix B, paragraph 2, a person is required to hold a recreational or student pilot certificate to begin the solo phase of the private pilot certification course but not for the flight portion of the certification course.

(88) Proposal to conform references to instrument training in the private pilot courses to instrument training for private pilot certification for the airplane and powered-lift ratings.

The FAA proposes to amend part 141, appendix B, 4(b)(1)(iii), 4(b)(2)(iii), and 4(b)(5)(iii) of the private pilot certification courses for the airplane single-engine, airplane multiengine, and powered-lift ratings, to mirror the requirements for private pilot certification for the single-engine airplane, multiengine airplane, or powered-lift ratings under existing § 61.109.

(89) Proposal to conform the solo cross-country mileage requirement in a private pilot-airplane single-engine rating course to the definition of ''cross-country.''

The FAA proposes to amend the solo cross-country distance requirement in paragraph 5(a)(1) of appendix B to part 141 for the private pilot certification—airplane single-engine rating course from requiring a flight of ''at least 50 nautical miles'' to ''more than 50 nautical miles.'' This proposal is to conform the distance requirement under this provision to the definition of ''cross-country'' under § 61.1(b)(3)(ii).

(90) Proposal to conform the solo cross-country mileage requirement in an approved private pilot-airplane multiengine rating course to the definition of ''cross-country.''

The FAA proposes to amend the solo cross-country distance requirement in paragraph 5(b)(1) of appendix B to part 141 for the private pilot certification—airplane multiengine rating course from requiring a flight of ''at least 50 nautical miles'' to ''more than 50 nautical miles.'' The purpose of this proposal is to conform the distance requirement under this provision to the definition of ''cross-country'' under § 61.1(b)(3)(ii).

(91) Proposal to conform the solo cross-country mileage requirement in an approved private pilot-helicopter rating course to ICAO requirements and the definition of ''cross-country.''

The FAA proposes to amend paragraph 5(c)(1) of appendix B to part 141 to change the solo cross-country distance requirement for the private pilot certification—helicopter rating course from ''at least 75 nautical miles total distance'' to ''at least 100 nautical miles total distance.'' The purpose of this proposal is to conform this provision to the ICAO requirements for the cross-country distance, as set forth in ICAO Annex I, paragraph 2.7.1.3.2, which requires that the total distance for a cross-country flight be at least 100 nautical miles.

Also, the FAA proposes to amend the solo cross-country flight requirement in paragraph 5(c)(1) of appendix B to part 141 for the private pilot certification—helicopter rating course from ''at least 25 nautical miles'' to '' more than 25 nautical miles.'' The purpose of this proposal is to conform the distance requirement of this provision to the definition of ''cross-country'' under § 61.1(b)(3)(v).

(92) Proposal to conform the solo cross-country mileage requirement in an approved private pilot-gyroplane rating course to the definition of ''cross-country.''

The FAA proposes to amend paragraph 5(d)(1) of appendix B to part 141 to change the solo cross-country distance requirement for the private pilot certification—gyroplane rating course from ''at least 75 nautical miles total distance'' to ''at least 100 nautical

miles total distance.'' The purpose of this proposal is to conform to the ICAO requirements for cross-country distance, as set forth in ICAO Annex I, paragraph 2.7.1.3.2, which requires that the total distance for a cross-country flight be at least 100 nautical miles. Also, the FAA proposes to amend the solo cross-country flight requirement in paragraph 5(d)(1) of appendix B to part 141 for the private pilot certification—gyroplane rating course from '' at least 25 nautical miles'' to '' more than 25 nautical miles.'' The purpose of this proposal is to conform the distance requirement under this provision to the definition of ''cross-country'' under § 61.1(b)(3)(v).

(93) Proposal to conform the solo cross-country mileage requirement in an approved private pilot-powered-lift rating course to the definition of ''cross-country.''

The FAA proposes to amend the solo cross-country distance requirement in paragraph 5(e)(1) of part 141, appendix B for the private pilot certification—powered-lift rating course from '' at least 50 nautical miles'' to ''more than 50 nautical miles.'' The purpose of this proposal is to conform the distance requirement under this provision to definition of ''cross-country'' under § 61.1(b)(3)(ii).

(94) Proposal to allow instrument training to be performed in a personal computer aviation training device.

The FAA proposes to amend paragraph 4(b) of part 141, appendix C, by adding a paragraph (5). This would allow 10 percent of the instrument training for the instrument rating course to be performed in a PCATD.

Under this proposal, the instrument training that would be performed in a PCATD would be given by the holder of a ground instructor certificate with an instrument rating or by a holder of a flight instructor certificate with an instrument rating appropriate to the instrument rating sought. The instrument training given in a PCATD would contribute to the maximum 50 percent of the instrument training permitted to be performed in a flight simulator or a flight training device in accordance with existing paragraph 4(c) of appendix C to part 141. For a PCATD to be used for instrument training under paragraph 4(d) of part 141, appendix C, the PCATD, instrument training, and instrument tasks would have to be approved by the FAA. The instrument training in a PCATD would have to be provided by an authorized instructor. For a person to receive the maximum 10 percent credit in a PCATD, the person could not have logged more than 40 percent of instrument training course required hours in a flight simulator or flight training device. A view-limiting device (e.g., a hood device or fogged glasses) would have to be worn by the applicant when logging instrument training in the PCATD.

(95) Proposal to allow the solo training requirements for the approved commercial pilot certification courses to be performed solo or with an instructor on board.

The FAA proposes to amend paragraph 5 of appendix D to part 141 for a commercial pilot certification course to be performed either solo or with a flight instructor on board. The purpose is to conform paragraph 5 of appendix D to part 141 to what is being proposed under §§ 61.129(a)(4), (c)(4), (d)(4), and (e)(4) for the single-engine airplane, helicopter, gyroplane, and powered-lift ratings at the commercial pilot certification level.

(96) Proposal to allow the cross-country training flights for the approved commercial pilot certification courses to be performed under VFR or IFR.

The FAA proposes to amend paragraph 4 of part 141, appendix D to allow the cross-country training flights in the commercial pilot certification courses to be performed under VFR or IFR. This proposal responds positively to recommended changes to part 141 from some pilot schools.

From the time that the cross-country training requirements under part 141, appendix D, paragraph 4 of were promulgated, the FAA has received recommendations from several pilot schools and companies that prepare training courses to amend the requirements to allow cross-country flights to be performed under IFR. The basis for their recommendation is that most commercial pilot training applicants for airplane ratings and some for helicopter ratings are concurrently enrolled in an instrument rating course. The FAA agrees that it makes sense to allow these cross-country training requirements to be performed under IFR or VFR. The FAA proposes to amend the requirements for the daytime cross-country training flight (see subparagraphs (b)(1)(iii), (b)(2)(iii), (b)(3)(ii), (b)(4)(ii), (b)(5)(ii), (b)(7)(ii)) to read ''One cross-country flight during daytime conditions * * *.'' This, in effect, would permit the daytime cross-country training flight to be performed under IFR or VFR.

The FAA also proposes the night-time cross-country training flight requirements (See subparagraphs (b)(1)(iv), (b)(2)(iv), (b)(3)(iii), (b)(5)(iii), and (b)(7)(iii)) in the commercial pilot certification courses to merely read ''One cross-country flight during night-time conditions * * *.'' This, in effect, would permit the night-time cross-country training flight to be performed under IFR or under VFR.

(97) Proposal to delete the cross-country training at night time requirement for the commercial pilot certification course for the gyroplane rating.

The FAA proposes to delete the cross-country training at night time requirement in paragraph 4(b)(4)(iii) of part 141, appendix D for the commercial pilot certification course for the gyroplane rating. The FAA determined that night-time training for the gyroplane rating for the commercial pilot certification course would be more useful and more safely conducted near an airport, because gyroplanes have very limited equipment and systems for nighttime cross country operations.

(98) Proposal to require ground reference maneuvers as an area of operation for the gyroplane rating in the commercial pilot certificate course.

The FAA proposes to amend paragraph 4(d)(4)(vi) of appendix D to part 141 to require ground reference maneuvers as an area of operation for the gyroplane rating in the commercial pilot certificate course. This would conform paragraph 4(d)(4)(vi) of part 141, appendix D with proposed § 61.127(b)(4)(vi) that would require flight proficiency in ''ground reference maneuvers'' for the gyroplane rating in the commercial pilot certificate course. The ground reference maneuvers must include at least ''eights around a pylon,'' ''eights along a road,'' ''rectangular course,'' ''S-turns,'' and ''turns around a point.''

(99) Proposal to allow the complex airplane training for the approved commercial pilot certification course—airplane single-engine rating to be performed in either a single or multiengine complex airplane.

In response to the Aircraft Owners and Pilots Association's (AOPA) petition for rulemaking of February 11, 1999, the FAA proposes to amend the complex airplane training requirement for the commercial pilot certification course for the single-engine airplane rating under paragraph 4.(b)(1)(ii) of appendix D to part 141. The FAA would allow the commercial pilot certification course for the single-engine airplane rating to be approved with use of either a complex single-engine airplane or a complex multiengine airplane. The use of either a complex single-engine

airplane or a complex multiengine airplane to meet the single-engine airplane training requirements is permitted under existing § 61.129(a)(3)(ii) for those training organizations that have chosen not to be approved under part 141. The FAA has determined that the current provision under part 141 may create an unfair financial burden on applicants at a part 141 pilot school versus those applicants who receive their training other than through a part 141 pilot school.

Therefore, the FAA proposes to delete the word ''single-engine'' from paragraph 4.(b)(1)(ii) of part 141, appendix D, so the rule would merely read as ''10 hours of training in an airplane that has retractable landing gear, flaps, and a controllable pitch propeller, or is turbine-powered.''

(100) Proposal to clarify the instrument training for the commercial pilot certification courses for the airplane single-engine, airplane multiengine, helicopter, gyroplane, powered-lift, and airship ratings.

The FAA proposes to amend paragraphs 4(b)(1)(i), (2)(i), (3)(i), (4)(i), (5)(i), and (7)(i) of part 141, appendix D to clarify that the tasks required for ''instrument training'' in the commercial pilot certification courses for the airplane single-engine, airplane multiengine, rotorcraft helicopter, rotorcraft gyroplane, powered-lift, and airship ratings require the use of a view-limiting device (*e.g.* use of a hood device, fogged goggles, etc.). This proposal is in response to inquiries about what tasks are required to satisfy ''instrument training'' for commercial pilot certification courses.

This proposal would parallel the proposed changes to instrument training under § 61.129 for the airplane single-engine, airplane multiengine, rotorcraft helicopter, rotorcraft gyroplane, powered-lift, and airship ratings at the commercial pilot certification level.

(101) Proposal to require pilots enrolled in an ATP certification course to have met the ATP aeronautical experience requirements of part 61, subpart G prior to completion of the course.

The FAA proposes to amend paragraph 2 of part 141, appendix E to establish that a person must first meet the aeronautical experience requirements under part 61, subpart G, for an ATP certificate before completing the flight portion of an ATP certification course. The purpose of this proposal is to clarify that a person who completes the ATP certification course must also have met the appropriate ATP aeronautical experience of part 61, subpart G before applying for the ATP certificate.

The existing language in paragraph 2 of part 141, appendix E has been interpreted by some to mean that a person could apply for an ATP certificate after meeting either existing paragraph 2.(a), (b), (c), or (d) of part 141, appendix E. This is not correct, because an applicant for an ATP certificate must also meet the appropriate aeronautical experience requirements under part 61, subpart G. The proposed introductory language in paragraph 2 in part 141, appendix E will clarify that an applicant for an ATP certificate must also meet the appropriate aeronautical experience requirements under part 61, subpart G prior to completion of the flight portion of the ATP certification course.

(102) Proposal to clarify the ground and flight training required for the approved additional category and/or class rating course.

The FAA proposes to amend paragraphs 3 and 4 of appendix I to part 141 to clarify the ground and flight training required for the additional category and/or class rating course. This proposal is in response to questions about what is the amount of ground and flight training required for an add-on aircraft category and/or class rating course.

The confusion arises because the language of existing paragraphs 3 and 4 of part 141, appendix I to part 141 that states that training must be in the areas ''that are specific to that aircraft category and class rating and pilot certificate level for which the course applies.'' Many believe this language does not clearly state what are the required ground and flight training amounts and content for ''add-on'' category/class courses. Therefore, the FAA proposes to expand the content of paragraphs 3 and 4 of part 141, appendix I for these additional category and/or class rating courses to specify the required amount of ground and flight training and their content for an add-on aircraft category and/or class rating course at the recreational pilot, private pilot, commercial pilot, and ATP certification levels. Proposed paragraphs 3 and 4 also would establish the required amount of ground and flight training and their content for just an ''add-on'' class rating (*i.e.*, where the applicant already holds a rating in that aircraft category, and the course at issue is only for an added class rating within that aircraft category) at the various pilot certification levels.

VIII. Regulatory Notices and Analyses

Paperwork Reduction Act

Information collection requirements associated with this NPRM have been approved previously by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) and have been assigned OMB Control Numbers 2120–0009 and 0021.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. There is one proposal in this notice (See proposal No. 71) where the FAA is proposing to amend § 61.159(d) and (e) to conform our ATP certification requirements to ICAO Standards and Recommended Practices.

Executive Order 12866 and DOT Regulatory Policies and Procedures

Pilot, Flight Instructor, and Pilot School Certification: Economic Assessment, Initial Regulatory Flexibility Determination, Trade Impact Assessment, and Unfunded Mandates Assessment

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, this Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the

economic impacts of this proposed rule. We suggest readers seeking greater detail read the full regulatory evaluation, a copy of which we have placed in the docket for this rulemaking.

In conducting these analyses, FAA has determined that this proposed rule: (1) Has benefits that justify its costs, (2) is not an economically ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, (3) is not ''significant'' as defined in DOT's Regulatory Policies and Procedures; (4) would not have a significant economic impact on a substantial number of small entities; (5) would not create unnecessary obstacles to the foreign commerce of the United States; and (6) would not impose an unfunded mandate on state, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

The FAA proposes to amend the training, qualification, certification, and operating requirements for pilots, flight instructors, ground instructors, and pilot schools. These changes are needed to clarify, update, and correct our existing regulations.

For the proposed revisions, for which we were able to quantify the cost savings, we estimate this proposal to generate cost savings of $31.6 million ($22.0 million, discounted) and $4.0 million ($3.0 million, discounted) of costs over the 2007–2016 time period. Therefore, this proposal is estimated to generate a net cost savings of $27.6 million ($19.1 million, discounted) over the same ten-year period and is cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration.'' The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The cost of the additional training for the night vision goggle requirement is about $1,800 per pilot ($1,800 ≈ $1,167,138 (undiscounted cost of night vision goggle training in year 1) ÷ 650 (estimated population that would receive night vision goggle training in year 1)). Since the training is optional these small costs would not impose a burden on any small entity. Also, this proposal could result in annual cost savings of about $625 per rotorcraft pilot and a maximum cost savings of about $430 per GA pilot by allowing the use of alternate methods to maintain instrument currency. We do not consider the costs or cost-savings of this rule to be significant. Therefore, the FAA certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. The FAA solicits comments regarding this determination.

International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39) prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. The FAA has assessed the potential effect of this proposed rule and has determined that it would have only a domestic impact and therefore no affect on international trade.

Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation with the base year 1995) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $128.1 million in lieu of $100 million. This proposed rule does not contain such a mandate.

Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore would not have federalism implications.

Plain English

Executive Order 12866 (58 FR 51735, Oct. 4, 1993) requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain unnecessary technical language or jargon that interferes with their clarity?
- Would the regulations be easier to understand if they were divided into more (but shorter) sections?
- Is the description in the preamble helpful in understanding the proposed regulations?
- Please send your comments to the address specified in the **ADDRESSES** section.

Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this proposed rulemaking action qualifies for the categorical exclusion identified in paragraph 307(k) and involves no extraordinary circumstances.

Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA has analyzed this NPRM under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). We have determined that it is not a ''significant energy action'' under the executive order because it is not a ''significant regulatory action'' under

Executive Order 12866, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

List of Subjects

14 CFR Part 61

Aircraft, Airmen, Alcohol abuse, Aviation safety, Drug abuse, Recreation and recreation areas, Reporting and recordkeeping requirements, Security measures, Teachers.

14 CFR Part 91

Afghanistan, Agriculture, Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Canada, Cuba, Ethiopia, Freight, Mexico, Noise control, Political candidates, Reporting and recordkeeping requirements, Yugoslavia.

14 CFR Part 141

Airmen, Educational facilities, Reporting and recordkeeping requirements, Schools.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend Chapter I of Title 14, Code of Federal Regulations, as follows:

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

1. The authority citation for part 61 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709–44711, 45102–45103, 45301–45302.

2. Amend § 61.1 by:

A. Revising paragraph (b)(2)(i) and (ii);

B. Re-designating existing paragraphs (b)(12) through (16) as paragraphs (b)(15) through (19);

C. Re-designating existing paragraphs (b)(4) through (11) as paragraphs (b)(5) through (12); and

D. Adding new paragraphs (b)(4), (13), (14), and (20) to read as follows:

§ 61.1 Applicability and definitions.

* * * * *

(b) * * *

(2) * * *

(i) A person who holds a valid ground instructor certificate issued under part 61 of this chapter, and is current, as specified in § 61.217, when conducting ground training in accordance with the privileges and limitations of his or her ground instructor certificate;

(ii) A person who holds a valid flight instructor certificate issued under part 61 of this chapter, and is current, as specified in § 61.197, when conducting ground training or flight training in accordance with the privileges and limitations of his or her flight instructor certificate; or

* * * * *

(4) *Current* as it relates to a pilot certificate, rating, or authorization means the pilot meets the appropriate recent flight experience requirements of this part for the flight operation being conducted; *current* as it relates to a flight instructor certificate means the flight instructor meets the flight instructor recent experience as specified in § 61.197; and *current* as it relates to a ground instructor certificate means the ground instructor meets the recent experience as specified in § 61.217.

* * * * *

(13) *Night vision goggles* means an appliance worn by a pilot that enhances the pilot's ability to maintain visual surface reference at night.

(14) *Night vision goggle operation* means the portion of a flight that occurs during the time period from 1 hour after sunset to 1 hour before sunrise where the pilot maintains visual surface reference using night vision goggles in an aircraft that is approved for such an operation.

* * * * *

(20) *Valid* airman certificate, rating or authorization means it has not been surrendered, suspended, revoked, or expired.

3. Amend § 61.3 by revising paragraphs (a) introductory text, (a)(1), (b) introductory text, (c)(1), (f)(2)(i), (f)(2)(ii), (g)(2)(i), (g)(2)(ii), and (j)(1) introductory text and by removing paragraph (j)(3) to read as follows:

§ 61.3 Requirement for certificates, ratings, and authorizations.

(a) *Pilot certificate.* A person may not serve as a required pilot flight crewmember of a civil aircraft of the United States, unless that person—

(1) Has a current and valid pilot certificate or special purpose pilot authorization issued under this part in that person's physical possession or readily accessible in the aircraft when exercising the privileges of that pilot certificate or authorization. However, when the aircraft is operated within a foreign country, a current and valid pilot license issued by that country may be used; and

* * * * *

(b) *Required pilot certificate for operating a foreign-registered aircraft.* A person may not serve as a required pilot flight crewmember of a civil aircraft of foreign registry within the United States, unless that person's pilot certificate—

* * * * *

(c) *Medical certificate.* (1) Except as provided under paragraph (c)(2) of this section, a person may not serve as a required pilot flight crewmember of an aircraft, unless that person has a valid and appropriate medical certificate issued under part 67 of this chapter or other documentation acceptable to the FAA that is in that person's physical possession or readily accessible in the aircraft.

* * * * *

(f) * * *

(2) * * *

(i) Holds a current and valid pilot certificate with category and class ratings for that aircraft and a current instrument rating for that category aircraft;

(ii) Holds a current and valid airline transport pilot certificate with category and class ratings for that aircraft; or

* * * * *

(g) * * *

(2) * * *

(i) Holds a current and valid pilot certificate with category and class ratings for that aircraft and a current instrument rating for that category aircraft;

(ii) Holds a current and valid airline transport pilot certificate with category and class ratings for that aircraft; or

* * * * *

(j) * * *

(1) *Age limitation.* No person who holds a pilot certificate issued under this part may serve as a pilot on a civil aircraft of the United States in the following operations if the person has reached his or her 60th birthday—

* * * * *

4. Amend § 61.19 by revising paragraphs (b), (d), and (e) to read as follows:

§ 61.19 Duration of pilot and instructor certificates.

* * * * *

(b) *Student pilot certificate.* (1) For student pilots who have not reached their 40th birthday, if the medical portion of the certificate is current, the student pilot certificate remains current for 36 calendar months from the month issued.

(2) For student pilots who have reached their 40th birthday, if the medical portion of the certificate is current, the student pilot certificate remains current for 24 calendar months from the month issued.

(3) For student pilots seeking a glider or balloon rating only, the student pilot certificate remains current for 36 calendar months from the month issued, regardless of the student pilot's age.

* * * * *

(d) *Flight instructor certificate.* A flight instructor certificate:

(1) Is issued without a specific expiration date;

(2) Remains current as long as the holder complies with § 61.197 of this part (recent flight instructor experience) every 24 calendar months or § 61.199 of this part (reinstatement); and

(3) Is valid only as long as the holder of the certificate maintains a valid U.S. pilot certificate.

(e) *Ground instructor certificate.* A ground instructor certificate:

(1) Is issued without a specific expiration date; and

(2) Remains current as long as the holder complies with the requirements under § 61.217 of this part.

* * * * *

5. Amend § 61.23 by:

A. Revising paragraph (a)(3)(iv);

B. Redesignating paragraph (a)(3)(v) as (a)(3)(vi);

C. Adding new paragraphs (a)(3)(v) and (vii);

D. Revising newly designated paragraph (vi);

E. Revising paragraphs (b)(3), (7), and (8); and

F. Adding a new paragraph (b)(9) to read as follows:

§ 61.23 Medical certificates: Requirement and duration.

(a) * * *

(3) * * *

(iv) When exercising the privileges of a flight instructor certificate and acting as the pilot in command;

(v) When exercising the privileges of a flight instructor certificate and serving as a required pilot flight crewmember;

(vi) When taking a practical test in an aircraft for a recreational pilot, private pilot, commercial pilot, or airline transport pilot certificate, or for a flight instructor certificate; or

(vii) When performing the duties as an Examiner in an aircraft when administering a practical test or proficiency check for an airman certificate, rating, or authorization.

(b) * * *

(3) When exercising the privileges of a pilot certificate with a glider category rating or balloon class rating in a glider or a balloon, as appropriate;

* * * * *

(7) When serving as an Examiner or check airman and administering a practical test or proficiency check for an airman certificate, rating, or authorization conducted in a glider, balloon, flight simulator, or flight training device;

(8) When taking a practical test or a proficiency check for a certificate, rating, authorization or operating privilege conducted in a glider, balloon, flight simulator, or flight training device; or

(9) When a pilot of the U.S. Armed Forces can show a current medical examination for pilot flight status from a medical facility of the U.S. Armed Forces and the flight does not involve air transportation services under parts 121, 125, or 135 of this chapter.

* * * * *

6. Amend § 61.29 by:

A. Removing paragraph (d)(3);

B. Re-designating existing paragraphs (d)(4) and (d)(5) as paragraphs (d)(3) and (d)(4); and

C. Revising newly re-designated paragraph (d)(4) to read as follows:

§ 61.29 Replacement of a lost or destroyed airman or medical certificate or knowledge test report.

* * * * *

(d) * * *

(4) Any information regarding the—

(i) Grade, number, and date of issuance of the airman certificate and ratings, if appropriate;

(ii) Class of medical certificate, the place and date of the medical exam, name of the Airman Medical Examiner (AME), and the circumstances concerning the loss of the original medical certificate, as appropriate; and

(iii) Date the knowledge test was taken, if appropriate.

* * * * *

7. Amend § 61.31 by:

A. Revising paragraph (d);

B. Re-designating existing paragraph (k) as (l); and

C. Adding new paragraph (k) to read as follows:

§ 61.31 Type rating requirements, additional training, and authorization requirements.

* * * * *

(d) *Aircraft category, class, and type ratings: Limitations on operating an aircraft as the pilot in command.* To serve as the pilot in command of an aircraft, a person must—

(1) Hold the appropriate category, class, and type rating (if a class or type rating is required) for the aircraft to be flown; or

(2) Have received training required by this part that is appropriate to the pilot certification level, aircraft category, class, and type rating (if a class or type rating is required) for the aircraft to be flown, and have received an endorsement for solo flight in that aircraft from an authorized instructor.

* * * * *

(k) *Additional training required for night vision goggle operations.* (1) Except as provided under paragraph (k)(3) of this section, no person may act as a pilot in command of an aircraft using night vision goggles unless that person receives and logs ground training from an authorized instructor and obtains a logbook or training record endorsement from an authorized instructor who certifies the person completed the ground training. The ground training must include the following subjects:

(i) Applicable portions of this chapter that relate to night vision goggle limitations and flight operations;

(ii) Aeromedical factors relating to the use of night vision goggles, including how to protect night vision, how the eyes adapt to night, self-imposed stresses that affect night vision, effects of lighting on night vision, cues used to estimate distance and depth perception at night, and visual illusions;

(iii) Normal, abnormal, and emergency operations of night vision goggle equipment;

(iv) Night vision goggle performance and scene interpretation; and

(v) Night vision goggle operation flight planning, including night terrain interpretation and factors affecting terrain interpretation.

(2) Except as provided under paragraph (k)(3) of this section, no person may act as a pilot in command of an aircraft using night vision goggles unless that person receives and logs flight training from an authorized instructor and obtains a logbook or training record endorsement from an authorized instructor who found the person proficient in the use of night vision goggles. The flight training must include the following tasks:

(i) Preparation and use of internal and external aircraft lighting systems for night vision goggle operations;

(ii) Preflight preparation of night vision goggles for night vision goggle operations;

(iii) Proper piloting techniques when using night vision goggles during the takeoff, climb, enroute, descent, and landing phases of flight; and

(iv) Normal, abnormal, and emergency flight operations using night vision goggles.

(3) The requirements under paragraphs (k)(1) and (2) of this section do not apply if a person can document satisfactory completion of any of the following pilot proficiency checks using night vision goggles in an aircraft:

(i) A pilot proficiency check for using night vision goggles conducted by the U.S. Armed Forces; or

(ii) A pilot proficiency check for using night vision goggles under part 135 of

this chapter conducted by an Examiner or check airman.

* * * * *

8. Amend § 61.35 by revising paragraph (a)(2)(iv) to read as follows:

§ 61.35 Knowledge test: Prerequisites and passing grades.

(a) * * *

(2) * * *

(iv) Permanent mailing address. If the permanent mailing address includes a post office box number, then provide a current residential address.

* * * * *

9. Amend § 61.39 by revising paragraphs (b)(2), (c)(1) , (c)(2), (d), and (e) to read as follows:

§ 61.39 Prerequisites for practical tests.

* * * * *

(b) * * *

(2) Is employed by the U.S. Armed Forces as a flight crewmember in U.S. military air transport operations at the time of the practical test and has completed the pilot in command aircraft qualification training program that is appropriate to the pilot certificate and rating sought.

(c) * * *

(1) Holds a valid foreign pilot license issued by a contracting State to the Convention on International Civil Aviation that authorizes at least the privileges of the pilot certificate sought;

(2) Is only applying for a type rating; or

* * * * *

(d) If all increments of the practical test are not completed in 1 day, all remaining increments of the test must be completed within 2 calendar months after the month the applicant began the test.

(e) If all increments of the practical test are not completed within 2 calendar months after the month the applicant began the test, the applicant must retake the entire practical test.

10. Amend § 61.43 by revising paragraphs (a) and (b) to read as follows:

§ 61.43 Practical tests: General procedures.

(a) Completion of the practical test for a certificate or rating consists of—

(1) Performing the tasks specified in the areas of operation for the airman certificate or rating sought within the approved practical test standards;

(2) Demonstrating mastery of the aircraft by performing each task successfully;

(3) Demonstrating proficiency and competency within the approved standards; and

(4) Demonstrating sound judgment.

(b) The pilot flight crew complement required during the practical test is based on one of the following requirements that applies to the aircraft being used on the practical test:

(1) If the aircraft's FAA-approved flight manual requires the pilot flight crew complement be a single pilot, then the applicant must demonstrate single pilot proficiency on the practical test.

(2) If the aircraft's type certification data sheet requires the pilot flight crew complement be a single pilot, then the applicant must demonstrate single pilot proficiency on the practical test.

(3) If the FAA Flight Standardization Board report, FAA-approved aircraft flight manual, or aircraft type certification data sheet allows the pilot flight crew complement to be either a single pilot, or a pilot and a copilot, then the applicant may demonstrate single pilot proficiency or have a copilot on the practical test. If the applicant performs the practical test with a copilot, the limitation of ''Second in Command Required'' will be placed on the applicant's pilot certificate. The limitation may be removed if the applicant passes the practical test by demonstrating single-pilot proficiency in the aircraft in which single-pilot privileges are sought.

* * * * *

11. Amend § 61.45 by revising paragraphs (a)(2)(iii) and (c) to read as follows:

§ 61.45 Practical tests: Required aircraft and equipment.

(a) * * *

(2) * * *

(iii) A military aircraft of the same category, class, and type, if class and type are applicable, for which the applicant is applying for a certificate or rating, and provided—

(A) The aircraft is under the direct operational control of the U.S. Armed Forces;

(B) The aircraft is airworthy under the maintenance standards of the U.S. Armed Forces; and

(C) The applicant has a letter from his or her commanding officer authorizing the use of the aircraft for the practical test.

* * * * *

(c) *Required controls.* Except for lighter-than-air aircraft and gliders, an aircraft used for a practical test must have engine power controls and flight controls that are easily reached and operable in a conventional manner by both pilots, unless the Examiner determines that the practical test can be conducted safely in the aircraft without the controls easily reached by the Examiner.

* * * * *

12. Amend § 61.51 by:

A. Adding new paragraph (b)(3)(iv);

B. Revising paragraph (b)(1)(iv), (b)(2)(v), (b)(3)(iii), (e), the heading of paragraph (g) and paragraph (g)(4); and

C. Adding new paragraphs (j) and (k) to read as follows:

§ 61.51 Pilot logbooks.

* * * * *

(b) * * *

(1) * * *

(iv) Type and identification of aircraft, flight simulator, flight training device, or personal computer aviation training device, as appropriate.

(2) * * *

(v) Training received in a flight simulator, flight training device, or personal computer aviation training device from an authorized instructor.

(3) * * *

(iii) Simulated instrument conditions in flight, a flight simulator, flight training device, or personal computer aviation training device.

(iv) Use of night vision goggles in an aircraft in flight, in a flight simulator, or in a flight training device.

* * * * *

(e) *Logging pilot in command flight time.* (1) A recreational, private, commercial, or airline transport pilot may log pilot in command flight time for flights—

(i) When the pilot is the sole manipulator of the controls of an aircraft for which the pilot is rated, or has sport pilot privileges;

(ii) When the pilot is the sole occupant in the aircraft;

(iii) When the pilot, except for a recreational pilot, acts as pilot in command of an aircraft for which more than one pilot is required under the type certification of the aircraft or the regulations under which the flight is conducted; or

(iv) When the pilot performs the duties of pilot in command while under the supervision of a qualified pilot in command provided—

(A) The pilot performing the duties of pilot in command holds a current and valid commercial or airline transport pilot certificate and aircraft rating that is appropriate to the category and class of aircraft being flown, if a class rating is appropriate;

(B) The pilot performing the duties of pilot in command is undergoing an approved pilot in command training program that includes ground and flight training on the following areas of operation—

(*1*) Preflight preparation;
(*2*) Preflight procedures;
(*3*) Takeoff and departure;
(*4*) In-flight maneuvers;
(*5*) Instrument procedures;
(*6*) Landings and approaches to landings;
(*7*) Normal and abnormal procedures;
(*8*) Emergency procedures; and
(*9*) Postflight procedures;

(C) The supervising pilot in command holds a—

(*1*) Current and valid commercial pilot certificate and flight instructor certificate, and aircraft rating that is appropriate to the category, class, and type of aircraft being flown, if a class or type rating is required; or

(*2*) Current and valid airline transport pilot certificate and aircraft rating that is appropriate to the category, class, and type of aircraft being flown, if a class or type rating is required; and

(D) The supervising pilot in command logs the pilot in command training in the pilot's logbook, certifies the pilot in command training in the pilot's logbook, and attests to that certification with his or her signature, and flight instructor certificate number.

(2) If rated to act as pilot in command of the aircraft, an airline transport pilot may log all flight time while acting as pilot in command of an operation requiring an airline transport pilot certificate.

(3) A certificated flight instructor may log pilot in command time for all flight time while serving as the authorized instructor in an operation if the instructor is rated to act as pilot in command of that aircraft.

* * * * *

(g) *Logging instrument time.*

* * * * *

(4) A person can use time in a flight simulator, flight training device, or personal computer aviation training device for acquiring instrument aeronautical experience for a pilot certificate, rating, or instrument recency experience, provided an authorized instructor is present to observe that time and signs the person's logbook to verify the time and the content of the training session.

* * * * *

(j) *Aircraft requirements for logging flight time.* For a person to log flight time, the time must be acquired in an aircraft that is identified as an aircraft under § 61.5(b), and is—

(1) An aircraft of U.S. registry with a current standard, limited, restricted, experimental, or primary airworthiness certificate;

(2) A light sport aircraft for a sport pilot rating or privilege;

(3) An aircraft of foreign registry with an airworthiness certificate that is approved by the aviation authority of a foreign country that is a member state to the Convention on International Civil Aviation Organization;

(4) A military aircraft under the direct operational control of the U.S. Armed Forces; or

(5) A public aircraft under the direct operational control of a Federal, State, County, or Municipal law enforcement agency, if the flight time was acquired by the pilot while engaged on an official law enforcement flight for a Federal, State, County, or Municipal law enforcement agency.

(k) *Logging night vision goggle time.* (1) A person may log night vision goggle time only for the time the person uses night vision goggles as the primary visual reference of the surface and operates:

(i) An aircraft during a night vision goggle operation; or

(ii) A flight simulator or flight training device with the lighting system adjusted to represent the period beginning 1 hour after sunset and ending 1 hour before sunrise.

(2) An authorized instructor may log night vision goggle time when that person conducts training using night vision goggles as the primary visual reference of the surface and operates:

(i) An aircraft during a night goggle operation; or

(ii) A flight simulator or flight training device with the lighting system adjusted to represent the period beginning 1 hour after sunset and ending 1 hour before sunrise.

(3) To log night vision goggle time to meet the recent night vision goggle experience requirements under § 61.57(f), a person must log the information required under § 61.51(b).

13. Amend § 61.57 by revising paragraph (c) and (d); and adding new paragraphs (f) and (g) to read as follows:

§ 61.57 Recent flight experience: Pilot in command.

* * * * *

(c) *Instrument experience.* Except as provided in paragraph (e) of this section, no person may act as pilot in command under IFR or weather conditions less than the minimums prescribed for VFR unless:

(1) *Use of an airplane, powered-lift, helicopter, or airship for maintaining instrument experience.* Within the 6 calendar months preceding a flight, that person performed and logged at least the following tasks, iterations, and flight time in an airplane, powered-lift, helicopter, or airship, as appropriate, for the instrument rating privileges to be maintained in actual weather conditions, or under simulated conditions using a view-limiting device that involves performing the following—

(i) Six instrument approaches consisting of both precision and non-precision approaches.

(ii) One complete holding pattern at a radio station and one complete holding pattern at an intersection or at a waypoint.

(iii) One hour of cross-country flying that involves intercepting and tracking courses through the use of navigation systems, performing a takeoff, area departure, enroute, area arrival, approach, and missed approach phase of flight.

(2) *Use of a flight simulator or flight training device for maintaining instrument experience.* Within the 6 calendar months preceding the flight, that person performed and logged at least the following tasks, iterations, and simulation time in a flight simulator or flight training device, provided the flight simulator or flight training device represents the category of aircraft for the instrument rating privileges to be maintained and the person uses a view-limiting device that involves performing the following—

(i) Three hours of instrument experience.

(ii) Two 180-degree steep turns involving turns in both directions.

(iii) One complete holding pattern at a radio station and one complete holding pattern at an intersection or at a waypoint.

(iv) Six precision approaches.

(v) Six non-precision approaches.

(vi) Two usual altitude recoveries while in a descending, V_{ne} airspeed condition and two usual altitude recoveries while in an ascending, stall speed condition.

(vii) One hour of a simulated cross-country operation that involves intercepting and tracking courses through the use of navigation systems, performing a takeoff, area departure, enroute, area arrival, approach, and missed approach phase of flight.

(3) *Use of a personal computer aviation training device for maintaining instrument experience.* Within the 2 calendar months preceding the flight, that person performed and logged at least the following tasks, iterations, and simulation time in a personal computer aviation training device and the person uses a view-limiting device that involves performing the following—

(i) Three hours of instrument experience.

(ii) Two 180-degree steep turns involving turns in both directions.

(iii) One complete holding pattern at a radio station and one complete holding pattern at an intersection or at a waypoint.

(iv) Six precision approaches.

(v) Six non-precision approaches.

(vi) Two usual altitude recoveries while in a descending, V_{ne} airspeed condition and two usual altitude recoveries while in an ascending, stall speed condition.

(vii) One hour of a simulated cross-country operation that involves intercepting and tracking courses through the use of navigation systems, performing a takeoff, area departure, enroute, area arrival, approach, and missed approach phase of flight.

(4) *Combination of completing instrument experience in an aircraft and a flight simulator, flight training device, or personal computer aviation training device.* A person who elects to complete the instrument experience with a combination of an aircraft, and a flight simulator, flight training device, or personal computer aviation training device must have within the 6 calendar months preceding the flight performed and logged—

(i) One hour of cross-country flying in an airplane, powered-lift, helicopter, or airship, as appropriate, for the instrument rating privileges to be maintained in actual weather conditions, or under simulated conditions using a view-limiting device and performing the tasks of intercepting and tracking courses by the use of navigation systems, performing a takeoff, area departure, enroute, area arrival, approach, and missed approach phase of flight; and

(ii) Three hours of instrument experience using a view-limiting device in a flight simulator, flight training device, or a personal computer aviation training device that represents the category of aircraft for the instrument rating privileges to be maintained and involves performing at least the following tasks—

(A) Two 180-degree steep turns involving turns in both directions.

(B) One complete holding pattern at a radio station and one complete holding pattern at an intersection or at a waypoint.

(C) Six precision approaches.

(D) Six non-precision approaches.

(E) Two usual altitude recoveries while in a descending, V_{ne} airspeed condition and two usual altitude recoveries while in an ascending, stall speed condition.

(F) One hour of a simulated cross-country operation that involves intercepting and tracking courses through the use of navigation systems, performing a takeoff, area departure, enroute, area arrival, approach, and missed approach phase of flight.

(5) *Combination of completing instrument experience in a flight simulator or flight training device, and a personal computer aviation training device.* A person who elects to complete the instrument experience with a combination of a flight simulator or flight training device, and a personal computer aviation training device must have within the 6 calendar months preceding the flight performed and logged—

(i) One hour of a simulated cross-country operation using a view-limiting device in a flight simulator or flight training device that represents the category of aircraft for the instrument rating privileges to be maintained and involves performing the tasks of intercepting and tracking courses through the use of navigation systems, performing a takeoff, area departure, enroute, area arrival, approach, and missed approach phase of flight; and

(ii) Three hours of instrument experience using a view-limiting device in a personal computer aviation training device that represents the category of aircraft for the instrument rating privileges to be maintained and involves performing at least the following tasks—

(A) Two 180-degree steep turns involving turns in both directions.

(B) One complete holding pattern at a radio station and one complete holding pattern at an intersection or at a waypoint.

(C) Six precision approaches.

(D) Six non-precision approaches.

(E) Two usual altitude recoveries while in a descending, V_{ne} airspeed condition and two usual altitude recoveries while in an ascending, stall speed condition.

(F) One hour of a simulated cross-country operation that involves intercepting and tracking courses through the use of navigation systems, performing a takeoff, area departure, enroute, area arrival, approach, and missed approach phase of flight.

(6) *Maintaining instrument recent experience in a glider.*

(i) Unless the person has performed and logged flight time in a glider for the instrument rating privileges to be maintained in actual weather conditions or under simulated conditions that include the following:

(A) One hour of instrument flight time in a glider or in a single-engine airplane using a view limiting device while performing cross-country practice operations that involve intercepting and tracking courses through the use of navigation systems while performing an area departure, enroute, and area arrival phase of flight; and

(B) Two hours of instrument flight time in a glider or a single-engine airplane with the use of a view limiting device while performing straight glides, turns to specific headings, steep turns, flight at various airspeeds, navigation, and slow flight and stalls.

(ii) Before a pilot is allowed to carry a passenger in a glider under IFR or in weather conditions less than the minimums prescribed for VFR, that pilot also must have logged and performed 2 hours of instrument flight time in a glider using a view limiting device while performing performance maneuvers, performance airspeeds, navigation, slow flight, and stalls.

(d) *Instrument proficiency check.* Except as provided in paragraph (e) of this section, a person who does not meet the instrument experience requirements of paragraph (c) of this section within the 12 calendar months before the flight may not serve as pilot in command under IFR or in weather conditions less than the minimums prescribed for VFR until having passed an instrument proficiency check that consists of the tasks required by the instrument rating practical test.

* * * * *

(f) *Night vision goggle operating experience.* (1) No person may act as a pilot in command in a night vision goggle operation with passengers on board unless, within 2 calendar months before the flight, that person performs and logs the following tasks as the sole manipulator of the controls on a flight during a night vision goggle operation—

(i) Three takeoffs and three landings, with each takeoff and landing including a climbout, cruise, descent, and approach phase of flight (only required if the pilot wants to use night vision goggles during the takeoff and landing phases of the flight).

(ii) Three hovering tasks (only required if the pilot wants to use night vision goggles when operating helicopters or powered-lifts during the hovering phase of flight).

(iii) Three area departure and area arrival tasks.

(iv) Three tasks of transitioning from aided night flight (*aided night flight* means where the pilot uses night vision goggles to maintain visual surface reference) to unaided night flight (*unaided night flight* means where the pilot does not use night vision goggles) and back to aided night flight.

(v) Three night vision goggle operations, or when operating helicopters or powered-lifts, six night vision goggle operations.

(2) No person may act as a pilot in command using night vision goggles unless, within 4 calendar months before the flight, that person performs and logs the tasks listed in paragraph (f)(1)(i) through (v) of this section as the sole manipulator of the controls during a night vision goggle operation.

(g) *Night vision goggle proficiency check.* A person must either meet the night vision goggle experience requirements of paragraphs (f)(1) or (f)(2) of this section or pass a night vision goggle proficiency check to act as pilot in command using night vision goggles. The proficiency check must be performed in the category of aircraft that is appropriate to the night vision goggle operation the person is seeking the night vision goggle privilege or in a flight simulator or flight training device that is representative of that category of aircraft. The check must consist of the tasks listed under § 61.31(l) of this part, and the check must be performed by:

(1) An Examiner who is qualified and current to perform night vision goggle operations in that same aircraft category and class;

(2) A person who is authorized by the U.S. Armed Forces to perform night vision goggle proficiency checks, provided the person being administered the check is also member of the U.S. Armed Forces;

(3) A company check pilot who is authorized to perform night vision goggle proficiency checks under parts 121, 125, or 135 of this chapter, provided that both the check pilot and the pilot being tested are employees of that operator;

(4) An authorized flight instructor who is qualified and current to perform night vision goggle operations in that same aircraft category and class;

(5) A person who is qualified and current as pilot in command for night vision goggle operations in accordance with paragraph (f) of this section; or

(6) A person approved by the FAA to perform night vision goggle proficiency checks.

14. Amend § 61.59 by revising the section heading, paragraphs (a)(1) through (4), and (b); and adding new paragraphs (c) and (d) to read as follows:

§ 61.59 Applications, certificates, logbooks, reports, and records: Falsification, reproduction, or alteration; Incorrect statements.

(a) * * *

(1) A fraudulent or intentionally false statement on any application for an airman certificate, rating, or authorization, or duplicate thereof, issued under this part;

(2) A fraudulent or intentionally false entry in any logbook, record, or report that is required to show compliance with any requirement for the issuance of or exercise of the privileges of an airman certificate, rating, or authorization;

(3) A reproduction of an airman certificate, rating, or authorization for fraudulent purposes; or

(4) An alteration of an airman certificate, rating, or authorization.

(b) The commission by any person of an act prohibited under paragraph (a) of this section is basis for—

(1) Suspending or revoking an airman certificate or ratings held by that person;

(2) Withdrawing authorizations held by that person; and

(3) Denying all applications for an airman certificate, rating, or authorization requested by that person.

(c) An incorrect statement made on an application for an airman certificate, rating, or authorization can serve as basis for suspending, revoking, or denying an airman certificate, rating, or authorization.

(d) An incorrect entry made in a logbook, record, or report to show compliance with any requirements for an airman certificate, rating, or authorization can serve as basis for suspending, revoking, or denying an airman certificate, rating, or authorization.

15. Revise § 61.63 to read as follows:

§ 61.63 Additional aircraft ratings (other than for ratings at the airline transport pilot certification level).

(a) *General.* For an additional aircraft rating on a pilot certificate, other than for an airline transport pilot certificate, a person must meet the requirements of this section appropriate to the additional aircraft rating sought.

(b) *Additional aircraft category rating.* A person who applies to add a category rating to a pilot certificate:

(1) Must complete the training and have the applicable aeronautical experience.

(2) Must have a logbook or training record endorsement from an authorized instructor attesting that the person was found competent in the appropriate aeronautical knowledge areas and proficient in the appropriate areas of operation.

(3) Must pass the practical test.

(4) Need not take an additional knowledge test if the person holds an airplane, rotorcraft, powered-lift, or airship rating at that pilot certificate level.

(c) *Additional aircraft class rating.* A person who applies for an additional class rating on a pilot certificate:

(1) Must have a logbook or training record endorsement from an authorized instructor attesting that the person was found competent in the appropriate aeronautical knowledge areas and proficient in the appropriate areas of operation.

(2) Must pass the practical test.

(3) Need not meet the training time and iteration requirements under this part that apply to the pilot certificate for the aircraft class rating sought. If the person holds only a lighter-than-air category rating with a balloon class rating and seeks an airship class rating, then that person must receive the required training and possess the appropriate aeronautical experience.

(4) Need not take an additional knowledge test if the person holds an airplane, rotorcraft, powered-lift, or airship rating at that pilot certificate level.

(d) *Additional aircraft type rating.* Except as provided under paragraph (d)(6) of this section, a person who applies for an aircraft type rating or an aircraft type rating to be completed concurrently with an aircraft category or class rating—

(1) Must hold or concurrently obtain an appropriate instrument rating, except as provided in paragraph (h) of this section.

(2) Must have a logbook or training record endorsement from an authorized instructor attesting that the person is competent in the appropriate aeronautical knowledge areas and proficient in the appropriate areas of operation at the airline transport pilot certification level.

(3) Must pass the practical test at the airline transport pilot certification level.

(4) Must perform the practical test in actual or simulated instrument conditions, except as provided in paragraph (e) of this section.

(5) Need not take an additional knowledge test if the applicant holds an airplane, rotorcraft, powered-lift, or airship rating on the pilot certificate.

(6) In the case of a pilot employee of a part 121 or part 135 certificate holder, the pilot must—

(i) Meet the appropriate requirements under paragraphs (d)(1), (d)(3), and (d)(4) of this section; and

(ii) Receive a flight training record endorsement from the certificate holder attesting that the person completed the certificate holder's approved ground and flight training program.

(e) *Aircraft not capable of instrument maneuvers and procedures.* (1) An applicant for a type rating or a type rating in addition to an aircraft category and/or class rating who provides an aircraft that is not capable of the instrument maneuvers and procedures required on the practical test:

(i) May apply for the type rating, but the rating would be limited to ''VFR only.''

(ii) May have the ''VFR only'' limitation removed for that aircraft type after the applicant:

(A) Passes a practical test in that type of aircraft in actual or simulated instrument conditions;

(B) Passes a practical test in that type of aircraft on the appropriate instrument maneuvers and procedures under § 61.157 of this part; or

(C) Becomes qualified under § 61.73(d) of this part for that type of aircraft.

(2) When an instrument rating is issued to a person who holds one or more type ratings, the amended pilot certificate must bear the ''VFR only'' limitation for each aircraft type rating that the person did not demonstrate instrument competency.

(f) *Multiengine airplane with a single-pilot station.* An applicant for a type rating, at other than the ATP certification level, in a multiengine airplane with a single-pilot station must perform the practical test in the multi-seat version of that airplane, or the practical test may be performed in the single-seat version of that airplane if the Examiner is in a position to observe the applicant during the practical test in the case where there is no multi-seat version of that multiengine airplane.

(g) *Single-engine airplane with a single-pilot station.* An applicant for a type rating, at other than the ATP certification level, in a single engine airplane with a single-pilot station must perform the practical test in the multi-seat version of that single-engine airplane, or the practical test may be performed in the single-seat version of that airplane if the Examiner is in a position to observe the applicant during the practical test in the case where there is no multi-seat version of that single-engine airplane.

(h) *Aircraft category and class ratings for the operation of aircraft with experimental certificates.* A person holding a recreational, private, or commercial pilot certificate may apply for a category and class rating limited to a specific make and model of experimental aircraft, provided—

(1) The person logged 5 hours flight time while acting as pilot in command in the same category, class, make, and model of aircraft.

(2) The person received a logbook endorsement from an authorized instructor who determined the pilot's proficiency to act as pilot in command of the same category, class, make, and model of aircraft.

(3) The flight time specified under paragraph (h)(1) of this section must have been logged between September 1, 2004 and August 31, 2005.

(i) *Waiver authority.* An Examiner who conducts a practical test may waive any task for which the FAA has provided waiver authority.

16. Add new § 61.64 to read as follows:

§ 61.64 Use of a flight simulator and flight training device.

(a) *Use of a flight simulator for the airplane rating.* If an applicant uses a flight simulator for training or the practical test for an airplane category, class, or type rating—

(1) The flight simulator—

(i) Must represent the category, class, and type of airplane rating (if a type rating is applicable) for the rating sought;

(ii) Must be used in accordance with an approved course of training under part 141 or part 142 of this chapter; or under part 121 or part 135 of this chapter, provided the applicant is a pilot employee of that air carrier operator;

(iii) At a minimum, must be qualified and approved as a Level C flight simulator if the applicant performs any portion of the practical test in the flight simulator; and

(iv) At a minimum, must be qualified and approved as a Level A flight simulator if the applicant uses the flight simulator for any training;

(2) If the type rating is for a turbojet airplane, the applicant must—

(i) Hold a type rating in a turbojet airplane of the same class of airplane, and that type rating may not contain a supervised operating experience limitation;

(ii) Have 1,000 hours of flight time in two different turbojet airplanes of the same class of airplane;

(iii) Have been appointed by the U.S. Armed Forces as a pilot in command in a turbojet airplane of the same class of airplane; or

(iv) Have 500 hours of flight time in the same type of airplane.

(3) If the type rating is for a turbo propeller airplane, the applicant must—

(i) Hold a type rating in a turbo-propeller airplane of the same class of airplane, and that type rating may not contain a supervised operating experience limitation;

(ii) Have 1,000 hours of flight time in two different turbo-propeller airplanes of the same class of airplane;

(iii) Have been appointed by the U.S. Armed Forces as a pilot in command in a turbo-propeller airplane of the same class of airplane; or

(iv) Have 500 hours of flight time in the same type of airplane.

(4) If the applicant does not meet the requirements of paragraph (a)(2) or (a)(3) of this section, then—

(i) The applicant must complete the following tasks on the practical test in the airplane of the category, class, and type of airplane rating (if a type rating is applicable) for which the airplane rating applies: preflight inspection, normal takeoff, normal instrument landing system approach, missed approach, and normal landing.

(ii) After passing the practical test, the applicant's pilot certificate must state: ''The [name the category, class, and type of airplane rating (if a type rating is applicable)] is subject to additional pilot in command limitations,'' and the applicant is restricted from serving as a pilot in command in that category, class, and type of airplane rating (if a type rating is applicable).

(iii) The limitation described under paragraph (a)(4)(ii) of this section may be removed from the applicant's pilot certificate if the applicant—

(A) Logs 25 hours of flight time in the category and class of airplane for the rating sought, and if a type rating is being sought, the flight time must be performed in the same type of airplane for the type rating sought;

(B) Performs the 25 hours of flight time under the direct observation of a pilot in command who holds the appropriate airplane category, class, and type rating, without limitations, in the same category, class, and type of airplane rating, if a type rating is applicable;

(C) Logs each flight and the pilot in command who observed the flight attests to each flight;

(D) Obtains the flight time while in the pilot in command seat of the appropriate airplane category, class, and type, if a type rating is appropriate; and

(E) Has an Examiner review the pilot logbook and endorse that logbook, attesting to compliance with the required supervised operating experience.

(b) *Use of a flight training device for the airplane rating.* If an applicant uses a flight training device for training for the airplane category, class, or type rating, the applicant must meet the requirements of paragraph (a)(2), (a)(3) or (a)(4) of this section, and the flight training device—

(1) Must represent the category, class, and type of airplane rating (if a type rating is applicable) for the rating.

(2) Must be used in accordance with an approved course of training under part 141 or part 142 of this chapter, or under part 121 or part 135 of this

chapter, provided the applicant is a pilot employee of that air carrier operator.

(3) Must be qualified and approved at or above a Level 2 flight training device if the applicant completes the entire practical test in the airplane.

(4) Must be qualified and approved at or above a Level 5 flight training device if the applicant uses a flight simulator for any portion of the practical test.

(c) *Use of a flight simulator for the helicopter rating.* If an applicant uses a flight simulator for training or the practical test for the helicopter class or type rating,

(1) The flight simulator—

(i) Must represent the class and type of helicopter rating (if a type rating is applicable) for the rating;

(ii) Must be used in accordance with an approved course of training under part 141 or part 142 of this chapter, or under part 135 of this chapter, provided the applicant is a pilot employee of that part 135 operator;

(iii) At a minimum, must be qualified and approved as a Level C flight simulator if the applicant performs any portion of the practical test in a flight simulator; and

(iv) At a minimum, must be qualified and approved as a Level A flight simulator if the applicant uses a flight simulator for any training.

(2) The applicant must meet one of the following requirements—

(i) Hold a type rating in a helicopter and that type rating may not contain the supervised operating experience limitation;

(ii) Have been appointed by the U.S. Armed Forces as a pilot in command of a helicopter;

(iii) Have 500 hours of flight time in the type of helicopter; or

(iv) Have 1,000 hours of flight time in two different types of helicopters.

(3) If the applicant does not meet any of the requirements of paragraph (c)(2) of this section, then—

(i) The applicant must complete the following tasks on the practical test in the helicopter class and type rating (if a type rating is applicable) for which the rating applies: Preflight inspection, normal takeoff, normal instrument landing system approach, missed approach, and normal landing.

(ii) After passing the practical test, the applicant's pilot certificate must state: ''The [name the helicopter class, and type of helicopter rating (if a type rating is applicable)] rating is subject to additional pilot in command limitations,'' and the applicant is restricted from serving as a pilot in command in that helicopter class and type of helicopter rating (if a type rating is applicable).

(iii) The limitation described under paragraph (c)(3)(ii) of this section may be removed from the pilot certificate if the applicant complies with the following—

(A) Logs 25 hours of flight time in the class of helicopter for the rating sought, and if the person applied for a type rating, the flight time must be performed in the same type of helicopter for the type rating sought;

(B) Performs the 25 hours of flight time under the direct observation of a pilot in command who holds the appropriate class and type of helicopter rating (if a type rating is applicable), without limitations, in the same class, and type of helicopter rating, if a type rating is applicable;

(C) Logs each flight and the pilot in command who observed the flight attests to each flight;

(D) Performs the flight time while in the pilot in command seat of the appropriate class and type of helicopter rating, if a type rating is appropriate; and

(E) Has an Examiner review the pilot logbook and endorse that logbook, attesting to compliance with the required supervised operating experience.

(d) *Use of a flight training device for the helicopter rating.* If an applicant uses a flight training device for training for the helicopter class or type rating, the applicant must meet the requirements of either paragraph (c)(2) or (3) of this section and the flight training device—

(1) Must represent the class and type of helicopter rating (if a type rating is applicable) for the rating.

(2) Must be used in accordance with an approved course of training under part 141 or part 142 of this chapter, or under part 135 of this chapter, provided the applicant is a pilot employee of that part 135 operator.

(3) Must be qualified and approved at or above a Level 2 flight training device if the applicant completes the entire practical test in the helicopter.

(4) Must be qualified and approved at or above a Level 5 flight training device if the applicant uses a flight simulator for any portion of the practical test.

(e) *Use of a flight simulator for the powered-lift rating.* If an applicant uses a flight simulator for training or the practical test for the powered-lift category or type rating—

(1) The flight simulator—

(i) Must represent the category and type of powered-lift rating (if a type rating is applicable) for the rating;

(ii) Must be used in accordance with an approved course of training under part 141 or part 142 of this chapter, or under part 121 or part 135 of this chapter, provided the applicant is a pilot employee of that air carrier operator;

(iii) At a minimum, must be qualified and approved as a Level C flight simulator if the applicant performs any portion of the practical test in a flight simulator; and

(iv) At a minimum, must be qualified and approved as a Level A flight simulator if the applicant uses a flight simulator for any training.

(2) The applicant must meet one of the following requirements—

(i) Hold a type rating in a powered-lift without a supervised operating experience limitation;

(ii) Have been appointed by the U.S. Armed Forces as a pilot in command of a powered-lift;

(iii) Have 500 hours of flight time in the type of powered-lift; or

(iv) Have 1,000 hours of flight time in two different types of powered-lifts.

(3) If the applicant does not meet any of the requirements of paragraph (e)(2) of this section, then—

(i) The applicant must complete the following tasks on the practical test in the powered-lift of the category and type of powered-lift rating (if a type rating is applicable) for which the rating applies: preflight inspection, normal takeoff, normal instrument landing system approach, missed approach, and normal landing.

(ii) After passing the practical test, the applicant's pilot certificate must state: ''The [name of the category and type of powered-lift rating (if a type rating is applicable)] rating is subject to additional pilot in command limitations,'' and that applicant is restricted from serving as a pilot in command in that category and type of powered-lift rating (if a type rating is applicable).

(iii) The limitation described under paragraph (e)(3)(ii) of this section may be removed from the pilot certificate if the applicant complies with the following—

(A) Logs 25 hours of flight time in the powered-lift category for the rating sought, and if a type rating is being sought, the flight time must be performed in the same type of powered-lift for the type rating sought;

(B) Performs the 25 hours flight time under the direct observation of a pilot in command who holds the category and type of powered-lift rating (if a type rating is applicable), without limitations, in the same category and type of powered-lift rating, if a type rating is applicable;

(C) Logs each flight and the pilot in command who observed the flight attests to each flight;

(D) Performs the flight time while in the pilot in command seat of the appropriate category and type of powered-lift rating, if a type rating is appropriate; and

(E) Has an Examiner review the pilot logbook and endorse that logbook, attesting to compliance with the required supervised operating experience.

(f) *Use of a flight training device for the powered-lift rating.* Whenever an applicant uses a flight training device for training for the powered-lift category or type rating, the flight training device must meet the following requirements, and the applicant must meet the requirements of either paragraph (e)(2) or (e)(3) of this section.

(1) The flight training device must represent the class and type of powered-lift rating (if a type rating is applicable) for the rating.

(2) The flight training device must be used in accordance with an approved course of training under part 141 or part 142 of this chapter; or under part 121 or part 135 of this chapter, provided the applicant is a pilot employee of that air carrier operator.

(3) If the applicant completes the entire practical test in the powered-lift, the flight training device used for training must be qualified and approved at or above a Level 2 flight training device.

(4) If an applicant uses a flight simulator for any portion of the practical test, the flight training device used for training must be qualified and approved at or above a Level 5 flight training device.

17. Amend § 61.65 by:

A. Revising paragraph (d);

B. Redesignating existing paragraph (e) as paragraph (g);

C. Adding new paragraphs (e), (f), and (h);

D. Revising newly designated paragraph (g) to read as follows:

§ 61.65 Instrument rating requirements.

* * * * *

(d) *Aeronautical experience for the instrument-airplane rating.* A person who applies for an instrument-airplane rating must have logged:

(1) Fifty hours of cross-country flight time as pilot in command, of which 10 hours must have been in an airplane; and

(2) Forty hours of actual or simulated instrument time in the areas of operation listed in paragraph (c) of this section, of which 15 hours must have been received from an authorized instructor who holds an instrument-airplane rating, and the instrument time includes:

(i) Three hours of instrument flight training from an authorized instructor in an airplane that is appropriate to the instrument-airplane rating within 2 calendar months before the date of the practical test; and

(ii) Instrument flight training on cross-country flight procedures, including one cross-country flight in an airplane with an authorized instructor, that is performed under instrument flight rules, and a flight plan has been filed with an air traffic control facility, and involves—

(A) A flight of 250 nautical miles along airways or by directed routing from an air traffic control facility;

(B) An instrument approach at each airport; and

(C) Three different kinds of approaches with the use of navigation systems.

(e) *Aeronautical experience for the instrument-helicopter rating.* A person who applies for an instrument-helicopter rating must have logged:

(1) Fifty hours of cross-country flight time as pilot in command, of which 10 hours must have been in a helicopter; and

(2) Forty hours of actual or simulated instrument time in the areas of operation listed under paragraph (c) of this section, of which 15 hours must have been with an authorized instructor who holds an instrument-helicopter rating, and the instrument time includes:

(i) Three hours of instrument flight training from an authorized instructor in a helicopter that is appropriate to the instrument-helicopter rating within 2 calendar months before the date of the practical test; and

(ii) Instrument flight training on cross-country flight procedures, including one cross-country flight in a helicopter with an authorized instructor that is performed under instrument flight rules and a flight plan has been filed with an air traffic control facility, and involves—

(A) A flight of 100 nautical miles along airways or by directed routing from an air traffic control facility;

(B) An instrument approach at each airport; and

(C) Three different kinds of approaches with the use of navigation systems.

(f) *Aeronautical experience for the instrument-powered-lift rating.* A person who applies for an instrument-powered-lift rating must have logged:

(1) Fifty hours of cross-country flight time as pilot in command, of which 10 hours cross-country must have been in a powered-lift; and

(2) Forty hours of actual or simulated instrument time in the areas of operation listed under paragraph (c) of this section, of which 15 hours must have been received from an authorized instructor who holds an instrument-powered-lift rating, and the instrument time includes:

(i) Three hours of instrument flight training from an authorized instructor in a powered-lift that is appropriate to the instrument-powered-lift rating within 2 calendar months before the date of the practical test; and

(ii) Instrument flight training on cross-country flight procedures, including one cross-country flight in a powered-lift with an authorized instructor that is performed under instrument flight rules and a flight plan has been filed with an air traffic control facility, and involves—

(A) A flight of 250 nautical miles along airways or by directed routing from an air traffic control facility;

(B) An instrument approach at each airport; and

(C) Three different kinds of approaches with the use of navigation systems.

(g) *Use of flight simulators or flight training devices.* If the instrument time was provided by an authorized instructor in a flight simulator or flight training device—

(1) A maximum of 30 hours may be performed in that flight simulator or flight training device if the instrument time was completed in accordance with part 142 of this chapter; or

(2) A maximum of 20 hours may be performed in that flight simulator or flight training device if the instrument time was not completed in accordance with part 142 of this chapter.

(h) *Use of a personal computer aviation training device.* A maximum of 10 hours of instrument time received in a personal computer aviation training device may be credited for the instrument time requirements of this section if—

(1) The device is approved and authorized by the FAA;

(2) An authorized instructor provides the instrument time in the device;

(3) No more than 10 hours of instrument time in a flight simulator or flight training device was credited for the instrument time requirements of this section;

(4) A view limiting device was worn by the applicant when logging instrument time in the device; and

(5) The FAA approved the instrument training and instrument tasks performed in the device.

18. Amend § 61.69 by revising paragraphs (a)(1), (4), and (6) introductory text to read as follows:

§ 61.69 Glider and unpowered ultralight vehicle towing: Experience and training requirements.

(a) * * *

(1) Holds a current and valid private, commercial or airline transport pilot certificate with a category rating for powered aircraft;

* * * * *

(4) Except as provided in paragraph (b) of this section, has logged at least three flights as the sole manipulator of the controls of an aircraft while towing a glider or unpowered ultralight vehicle, or has simulated towing flight procedures in an aircraft while accompanied by a pilot who meets the requirements of paragraphs (c) and (d) of this section.

* * * * *

(6) Within 24 calendar months before the flight has—

* * * * *

19. Revise § 61.73 to read as follows:

§ 61.73 Military pilots or former military pilots: Special rules.

(a) *General.* Except for a person who has been removed from flying status for lack of proficiency or because of a disciplinary action involving aircraft operations, a U.S. military pilot or former military pilot who meets the requirements of this section may apply, on the basis of his or her military pilot qualifications, for:

(1) A commercial pilot certificate with the appropriate aircraft category and class rating.

(2) An instrument rating with the appropriate aircraft rating.

(3) A type rating.

(b) *Military pilots and former military pilots in an Armed Force of the United States.* A person who qualifies as a military pilot or former military pilot in the U.S. Armed Forces may apply for a pilot certificate and ratings under paragraph (a) of this section if that person—

(1) Presents evidentiary documents described under paragraphs (h)(1), (2), and (3) of this section that show the person's status in the U.S. Armed Forces.

(2) Has passed the military competency aeronautical knowledge test on the appropriate parts of this chapter for commercial pilot privileges and limitations, air traffic and general operating rules, and accident reporting rules.

(3) Presents official U.S. military records that shows compliance with one of the following requirements—

(i) Prior to the date of the application, passing an official U.S. military pilot and instrument proficiency check in a military aircraft of the kind of aircraft category, class, and type, if class or type of aircraft is applicable, for the ratings sought; or

(ii) Prior to the date of application, logging 10 hours of pilot time as a military pilot in a U.S. military aircraft in the kind of aircraft category, class, and type, if a class rating or type rating is applicable, for the aircraft rating sought.

(c) *A military pilot of an Armed Force of a foreign contracting State to the Convention on International Civil Aviation.* A person who is a military pilot of an Armed Force of a foreign contracting State to the Convention on International Civil Aviation and is assigned to pilot duties in the U.S. Armed Forces, for purposes other than receiving flight training, may apply for a commercial pilot certificate and ratings under paragraph (a) of this section, provided that person—

(1) Presents evidentiary documents described under paragraph (h)(4) of this section that shows the person is a military pilot of an Armed Force of a foreign contracting State to the Convention on International Civil Aviation, and is assigned to pilot duties in an Armed Force of the United States, for purposes other than receiving flight training.

(2) Has passed the military competency aeronautical knowledge test on the appropriate parts of this chapter for commercial pilot privileges and limitations, air traffic and general operating rules, and accident reporting rules.

(3) Presents official U.S. military records that show compliance with one of the following requirements:

(i) Prior to the date of the application, passed an official U.S. military pilot and instrument proficiency check in a military aircraft of the kind of aircraft category, class, or type, if class or type of aircraft is applicable, for the ratings; or

(ii) Prior to the date of application, logged 10 hours of pilot time as a military pilot in a U.S. military aircraft of the kind of category, class, and type of aircraft, if a class rating or type rating is applicable, for the aircraft rating.

(d) *Instrument rating.* A person who is qualified as a U.S. military pilot or former military pilot may apply for an instrument rating to be added to a pilot certificate if that person has—

(1) Passed an instrument proficiency check by the U.S. Armed Forces in the aircraft category for the instrument rating sought; and

(2) An official U.S. Armed Forces record that shows the person is instrument pilot qualified by the U.S. Armed Forces to conduct instrument flying on Federal airways in that aircraft category and class for the instrument rating sought.

(e) *Aircraft type rating.* An aircraft type rating may only be issued for a type of aircraft that has a comparable civilian type designation by the Administrator.

(f) *Aircraft type rating placed on an airline transport pilot certificate.* A person who is a military pilot or former military pilot of the U.S. Armed Forces and requests an aircraft type rating to be placed on an existing U.S. airline transport pilot certificate may be issued the rating at the airline transport pilot certification level, provided that person:

(1) Holds a category and class rating for that type of aircraft at the airline transport pilot certification level; and

(2) Has passed an official U.S. military pilot check and instrument proficiency check in that type of aircraft.

(g) *Flight instructor certificate and ratings.* A person who is a U.S. military instructor pilot may apply for and be issued a flight instructor certificate with the appropriate ratings if that person:

(1) Holds a commercial or airline transport pilot certificate with the appropriate aircraft category and class rating, if a class rating is appropriate, for the flight instructor rating sought;

(2) Holds an instrument rating on the pilot certificate that is appropriate to the flight instructor rating sought; and

(3) Presents the following evidentiary documents:

(i) A knowledge test report that shows the person passed a knowledge test on the aeronautical knowledge areas listed under § 61.185(a) that are appropriate to the flight instructor rating;

(ii) An official U.S. Armed Forces record that shows the person is qualified as a military instructor pilot for the flight instructor rating;

(iii) An official U.S. Armed Forces record that shows the person is a military instructor pilot for the flight instructor rating;

(iv) An official U.S. Armed Forces record that shows the person graduated from a U.S. Armed Forces' instructor pilot training school and received an aircraft rating qualification as a military instructor pilot that is appropriate to the flight instructor rating; and

(v) An official U.S. Armed Forces record that shows the person passed an instructor pilot proficiency check in an aircraft as a military instructor pilot in

the U.S. Armed Forces that is appropriate to the flight instructor rating.

(h) *Evidentiary documents for qualifying for a pilot certificate and rating.* The following documents are required in order for a person to be able to apply for a pilot certificate and rating:

(1) An official U.S. Armed Forces record that shows the person is or was a military pilot.

(2) An official U.S. Armed Forces record that shows the person graduated from a U.S. Armed Forces undergraduate pilot training school and received a rating qualification as a military pilot.

(3) An official U.S. Armed Forces record that shows the pilot passed a pilot proficiency check and instrument proficiency check in an aircraft as a military pilot.

(4) If a person is a military pilot of an Armed Force from a foreign contracting State to the Convention on International Civil Aviation and is applying for a pilot certificate and rating, that person must present the following:

(i) An official U.S. Armed Forces record that shows the person is a military pilot in an Armed Force of the United States;

(ii) An official U.S. Armed Forces record that shows the person is assigned as a military pilot with an Armed Force of the United States for purposes other than receiving flight training;

(iii) An official record that shows the person graduated from a military undergraduate pilot training school from an Armed Force from a foreign contracting State to the Convention on International Civil Aviation or from an Armed Force of the United States, and received a qualification as a military pilot; and

(iv) An official U.S. Armed Forces record that shows that the person passed a pilot proficiency check and instrument proficiency check in an aircraft as a military pilot in an Armed Force of the United States.

20. Amend § 61.75 by revising paragraphs (a), (b) introductory text, (b)(2), (b)(3), (c), (d) introductory text, (e)(1), (e)(4), (f), and (g) to read as follows:

§ 61.75 Private pilot certificate issued on the basis of a foreign pilot license.

(a) *General.* A person who holds a valid foreign pilot license at the private pilot level or higher that was issued by a contracting State to the Convention on International Civil Aviation may apply for and be issued a U.S. private pilot certificate with the appropriate ratings if the foreign pilot license meets the requirements of this section.

(b) *Certificate issued.* A U.S. private pilot certificate issued under this section must specify the person's foreign license number and country of issuance. A person who holds a valid foreign pilot license issued by a contracting State to the Convention on International Civil Aviation may be issued a U.S. private pilot certificate based on the foreign pilot license without any further showing of proficiency, provided the applicant:

(1) * * *

(2) Holds a valid foreign pilot license, at the private pilot license level or higher, that does not contain a limitation stating that the applicant has not met all of the standards of ICAO for that license;

(3) Does not hold a U.S. pilot certificate other than a U.S. student pilot certificate;

* * * * *

(c) *Aircraft ratings issued.* Aircraft ratings listed on a person's foreign pilot license, in addition to any issued after testing under the provisions of this part, may be placed on that person's U.S. pilot certificate for private pilot privileges only.

(d) *Instrument ratings issued.* A person who holds a valid instrument rating on the foreign pilot license issued by a contracting State to the Convention on International Civil Aviation may be issued an instrument rating on a U.S. pilot certificate provided:

* * * * *

(e) * * *

(1) May act as a pilot in command of a civil aircraft of the United States in accordance with the pilot privileges authorized by this part and the limitations placed on that U.S. pilot certificate;

* * * * *

(4) Cannot exercise the privileges of that U.S. pilot certificate when the person's foreign pilot license is not valid.

(f) *Limitation on licenses used as the basis for a U.S. certificate.* A person may use only one foreign pilot license as a basis for the issuance of a U.S. pilot certificate. The foreign pilot license and medical certification used as a basis for issuing a U.S. pilot certificate under this section must be written in English or accompanied by an English transcription that has been signed by an official or representative of the foreign aviation authority that issued the foreign pilot license.

(g) *Limitation placed on a U.S. pilot certificate.* A U.S. pilot certificate issued under this section can only be exercised when the pilot has the foreign pilot license, upon which the issuance of the U.S. pilot certificate was based, in the holder's possession or is readily accessible in the aircraft.

21. Amend § 61.77 by:

A. Revising the section heading; revising paragraphs (a)(2), (b)(1), and (b)(4);

B. Removing paragraph (b)(5); and

C. Redesignating paragraph (b)(6) as (b)(5) to read as follows:

§ 61.77 Special purpose pilot authorization: Operation of a civil aircraft of the United States and leased by a non -U.S. citizen.

(a) * * *

(2) For carrying persons or property for compensation or hire for operations in—

(i) Scheduled international air services in turbojet-powered airplanes of U.S. registry;

(ii) Scheduled international air services in airplanes of U.S. registry having a configuration of more than nine passenger seats, excluding crewmember seats;

(iii) Nonscheduled international air transportation in airplanes of U.S. registry having a configuration of more than 30 passenger seats, excluding crewmember seats; or

(iv) Scheduled international air services, or nonscheduled international air transportation, in airplanes of U.S. registry having a payload capacity of more than 7,500 pounds.

(b) * * *

(1) A valid foreign pilot license issued by the aeronautical authority of a contracting State to the Convention on International Civil Aviation that contains the appropriate aircraft category, class, type rating, if appropriate, and instrument rating for the aircraft to be flown;

* * * * *

(4) Documentation the applicant meets the medical standards for the issuance of the foreign pilot license from the aeronautical authority of that contracting State to the Convention on International Civil Aviation; and

* * * * *

22. Amend § 61.96 by revising paragraphs (b)(7) and (b)(8); and adding a new paragraph (b)(9) to read as follows:

§ 61.96 Applicability and eligibility requirements: General.

* * * * *

(b) * * *

(7) Pass the practical test on the areas of operation listed under § 61.98(b) of this part that apply to the aircraft category and class rating;

(8) Comply with the sections of this part that apply to the aircraft category and class rating; and

(9) Hold a U.S. student pilot certificate.

23. Amend § 61.101 by revising paragraph (e)(1)(iii) to read as follows:

§ 61.101 Recreational pilot privileges and limitations.

* * * * *

(e) * * *

(1) * * *

(iii) With a powerplant of more than 180 horsepower, except aircraft certificated in the rotorcraft category; or

* * * * *

24. Amend § 61.103 by adding new paragraph (j) to read as follows:

§ 61.103 Eligibility requirements: General.

* * * * *

(j) Hold a valid U.S. student pilot certificate, or recreational pilot certificate.

25. Amend § 61.109 by revising paragraphs (a)(5)(ii), (b)(5)(ii), (c)(4)(ii), (d)(4)(ii), and (e)(5)(ii) to read as follows:

§ 61.109 Aeronautical experience.

(a) * * *

(5) * * *

(ii) One solo cross-country flight of 150 nautical miles total distance, with full-stop landings at three points, and one segment of the flight consisting of a straight-line distance of more than 50 nautical miles between the takeoff and landing locations; and

* * * * *

(b) * * *

(5) * * *

(ii) One solo cross-country flight of 150 nautical miles total distance, with full-stop landings at three points, and one segment of the flight consisting of a straight-line distance of more than 50 nautical miles between the takeoff and landing locations; and

* * * * *

(c) * * *

(4) * * *

(ii) One solo cross-country flight of 100 nautical miles total distance, with landings at three points, and one segment of the flight being a straight-line distance of more than 25 nautical miles between the takeoff and landing locations; and

* * * * *

(d) * * *

(4) * * *

(ii) One solo cross-country flight of 100 nautical miles total distance, with landings at three points, and one segment of the flight being a straight-line distance of more than 25 nautical miles between the takeoff and landing locations; and

* * * * *

(e) * * *

(5) * * *

(ii) One solo cross-country flight of 150 nautical miles total distance, with full-stop landings at three points, and one segment of the flight consisting of a straight-line distance of more than 50 nautical miles between the takeoff and landing locations; and

* * * * *

26. Amend § 61.127 by:

A. Redesignating paragraphs (b)(4)(vi) through (ix) as (b)(4)(vii) through (x);

B. Adding a new paragraph (b)(4)(vi);

C. Removing paragraph (b)(5)(vii); and

D. Re-designating existing paragraphs (b)(5)(viii) through (xiii) as (b)(5)(vii) through (xii) to read as follows:

§ 61.127 Flight proficiency.

* * * * *

(b) * * *

(4) * * *

(vi) Ground reference maneuvers;

* * * * *

27. Amend § 61.129 by revising paragraphs (a)(3)(i), (a)(3)(iii), (a)(3)(iv), (a)(4) introductory text, (b)(3)(i), (b)(3)(iii), (b)(3)(iv), (c)(3)(i), (c)(3)(ii), (c)(3)(iii), (c)(4) introductory text, (d)(3)(i), (d)(3)(ii), (d)(3)(iii), (d)(4) introductory text, (e)(3)(i), (e)(3)(ii), (e)(3)(iii), (e)(4) introductory text, (g)(2) introductory text, (g)(3), (g)(4)(ii), (g)(4)(iii), and (i)(3) to read as follows:

§ 61.129 Aeronautical experience.

(a) * * *

(3) * * *

(i) 10 hours of instrument training using a view limiting device including attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems. Five of the 10 hours of instrument training must be in a single-engine airplane;

* * * * *

(iii) One 2-hour cross-country flight in a single-engine airplane in day-time conditions that consists of a total straight-line distance of more than 100 nautical miles from the original point of departure;

(iv) One 2-hour cross-country flight in a single-engine airplane in night-time conditions that consists of a total straight-line distance of more than 100 nautical miles from the original point of departure; and

* * * * *

(4) 10 hours of solo flight time in a single-engine airplane or 10 hours of flight time performing the duties of pilot in command in a single-engine airplane with an authorized instructor on board (either of which may be credited towards the flight time requirement under paragraph (a)(2) of this section), on the areas of operation listed under § 61.127(b)(1) that includes—

* * * * *

(b) * * *

(3) * * *

(i) Ten hours of instrument training using a view limiting device including attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems. Five of the 10 hours of instrument training must be in a multiengine airplane;

* * * * *

(iii) One 2-hour cross-country flight in a multiengine airplane in day-time conditions that consists of a total straight-line distance of more than 100 nautical miles from the original point of departure;

(iv) One 2-hour cross-country flight in a multiengine airplane in night-time conditions that consists of a total straight-line distance of more than 100 nautical miles from the original point of departure; and

* * * * *

(c) * * *

(3) * * *

(i) Five hours on the control and maneuvering of a helicopter solely by reference to instruments using a view limiting device including attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems. This aeronautical experience may be performed in an aircraft, flight simulator, flight training device, or a personal computer aviation training device;

(ii) One 2-hour cross-country flight in a helicopter in day-time conditions that consists of a total straight-line distance of more than 50 nautical miles from the original point of departure;

(iii) One 2-hour cross-country flight in a helicopter in night-time conditions that consists of a total straight-line distance of more than 50 nautical miles from the original point of departure; and

* * * * *

(4) Ten hours of solo flight time in a helicopter or 10 hours of flight time performing the duties of pilot in command in a helicopter with an authorized instructor on board (either of which may be credited towards the flight time requirement under paragraph (c)(2) of this section), on the areas of operation listed under § 61.127(b)(3) that includes—

* * * * *

(d) * * *

(3) * * *

(i) 2.5 hours on the control and maneuvering of a gyroplane solely by

reference to instruments using a view limiting device including attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems. This aeronautical experience may be performed in an aircraft, flight simulator, flight training device, or a personal computer aviation training device;

(ii) One 2-hour cross-country flight in a gyroplane in day-time conditions that consists of a total straight-line distance of more than 50 nautical miles from the original point of departure;

(iii) Two hours of flight training during night-time conditions in a gyroplane at an airport, that includes 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern); and

* * * * *

(4) Ten hours of solo flight time in a gyroplane or 10 hours of flight time performing the duties of pilot in command in a gyroplane with an authorized instructor on board (either of which may be credited towards the flight time requirement under paragraph (d)(2) of this section), on the areas of operation listed under § 61.127(b)(4) of this part that includes—

* * * * *

(e) * * *

(3) * * *

(i) Ten hours of instrument training using a view limiting device including attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems. Five of the 10 hours of instrument training must be in a powered-lift;

(ii) One 2-hour cross-country flight in a powered-lift in day-time conditions that consists of a total straight-line distance of more than 100 nautical miles from the original point of departure;

(iii) One 2-hour cross-country flight in a powered-lift in night-time conditions that consists of a total straight-line distance of more than 100 nautical miles from the original point of departure; and

* * * * *

(4) Ten hours of solo flight time in a powered-lift or 10 hours of flight time performing the duties of pilot in command in a powered-lift with an authorized instructor on board (either of which may be credited towards the flight time requirement under paragraph (e)(2) of this section), on the areas of operation listed under § 61.127(b)(5) of this part that includes—

* * * * *

(g) * * *

(2) Thirty hours of pilot in command time in airships or performing the duties of pilot in command in an airship with an authorized instructor aboard, which consists of—

* * * * *

(3) Forty hours of instrument time to include—

(i) Instrument training using a view limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems; and

(ii) Twenty hours of instrument flight time, of which 10 hours must be in flight in airships.

(4) * * *

(ii) One 1-hour cross-country flight in an airship in day-time conditions that consists of a total straight-line distance of more than 25 nautical miles from the point of departure; and

(iii) One 1-hour cross-country flight in an airship in night-time conditions that consists of a total straight-line distance of more than 25 nautical miles from the point of departure.

* * * * *

(i) * * *

(3) Except when fewer hours are approved by the FAA, an applicant for the commercial pilot certificate with the airplane or powered-lift rating who has completed 190 hours of aeronautical experience is considered to have met the total aeronautical experience requirements of this section, provided the applicant satisfactorily completed an approved commercial pilot course under part 142 of this chapter and the approved course was appropriate to the commercial pilot certificate and aircraft rating sought.

28. Amend § 61.133 by revising paragraph (a)(1) introductory text to read as follows:

§ 61.133 Commercial pilot privileges and limitations.

(a) * * *

(1) *General.* A person who holds a current and valid commercial pilot certificate may act as pilot in command of an aircraft—

* * * * *

29. Amend § 61.153 by revising paragraphs (d)(1), (d)(3), and (h) to read as follows:

§ 61.153 Eligibility requirements: General.

* * * * *

(d) * * *

(1) Holds a commercial pilot certificate with an instrument rating issued under this part;

* * * * *

(3) Holds either a valid foreign airline transport pilot license with instrument privileges, or a valid foreign commercial pilot license with an instrument rating, that—

(i) Was issued by a contracting State to the Convention on International Civil Aviation; and

(ii) Contains no geographical limitations.

* * * * *

(h) Comply with the sections of this subpart that apply to the aircraft category and class rating sought.

30. Revise § 61.157 to read as follows:

§ 61.157 Flight proficiency.

(a) *General.*

(1) The practical test for an airline transport pilot certificate is given for—

(i) An airplane category and single-engine class rating.

(ii) An airplane category and multiengine class rating.

(iii) A rotorcraft category and helicopter class rating.

(iv) A powered-lift category rating.

(v) An aircraft type rating.

(2) A person who is applying for an airline transport pilot practical test must meet—

(i) The eligibility requirements of § 61.153 of this part; and

(ii) The aeronautical knowledge and aeronautical experience requirements of this subpart that apply to the aircraft category and class rating sought.

(b) *Aircraft type rating.* Except as provided in paragraph (c) of this section, a person who applies for an aircraft type rating to be added to an airline transport pilot certificate or applies for a type rating to be concurrently completed with an airline transport pilot certificate:

(1) Must receive and log ground and flight training from an authorized instructor on the areas of operation under this section that apply to the aircraft type rating;

(2) Must receive a logbook endorsement from an authorized instructor that certifies the applicant completed the training on the areas of operation listed under paragraph (e) of this section that apply to the aircraft type rating; and

(3) Must perform the practical test in actual or simulated instrument conditions, except as provided under paragraph (g) of this section.

(c) *Exceptions.* A person who applies for an aircraft type rating to be added to an airline transport pilot certificate or an aircraft type rating concurrently with an airline transport pilot certificate, and who is an employee of a certificate holder operating under part 121 or part 135 of this chapter, does not need to comply with the requirements of paragraph (b) of this section if the applicant presents a training record that

shows completion of that certificate holder's approved pilot in command training program for the aircraft type rating.

(d) *Upgrading type ratings.* Any type rating(s) and limitations on a pilot certificate of an applicant who completes an airline transport pilot practical test will be included at the airline transport pilot certification level, provided the applicant passes the practical test in the same category and class of aircraft for which the applicant holds the type rating(s).

(e) *Areas of operation.*

(1) For an airplane category—single-engine class rating:

(i) Preflight preparation;

(ii) Preflight procedures;

(iii) Takeoff and departure phase;

(iv) In-flight maneuvers;

(v) Instrument procedures;

(vi) Landings and approaches to landings;

(vii) Normal and abnormal procedures;

(viii) Emergency procedures; and

(ix) Postflight procedures.

(2) For an airplane category—multiengine class rating:

(i) Preflight preparation;

(ii) Preflight procedures;

(iii) Takeoff and departure phase;

(iv) In-flight maneuvers;

(v) Instrument procedures;

(vi) Landings and approaches to landings;

(vii) Normal and abnormal procedures;

(viii) Emergency procedures; and

(ix) Postflight procedures.

(3) For a powered-lift category rating:

(i) Preflight preparation;

(ii) Preflight procedures;

(iii) Takeoff and departure phase;

(iv) In-flight maneuvers;

(v) Instrument procedures;

(vi) Landings and approaches to landings;

(vii) Normal and abnormal procedures;

(viii) Emergency procedures; and

(ix) Postflight procedures.

(4) For a rotorcraft category—helicopter class rating:

(i) Preflight preparation;

(ii) Preflight procedures;

(iii) Takeoff and departure phase;

(iv) In-flight maneuvers;

(v) Instrument procedures;

(vi) Landings and approaches to landings;

(vii) Normal and abnormal procedures;

(viii) Emergency procedures; and

(ix) Postflight procedures.

(f) *Proficiency and competency checks conducted under part 121 or part 135.*

(1) Completion of a pilot in command proficiency check under § 121.441 of this chapter that is conducted by an Examiner or a FAA Aviation Safety Inspector satisfies the requirements of this section for the appropriate aircraft rating.

(2) Completion of both the following checks that are conducted by an Examiner or a FAA Aviation Safety Inspector satisfies the requirements of this section for the appropriate aircraft rating—

(i) Pilot in command proficiency check under § 135.293 of this chapter; and

(ii) Pilot in command instrument proficiency check under § 135.297 of this chapter.

(g) *Aircraft not capable of instrument maneuvers and procedures.* An applicant may add a type rating to an airline transport pilot certificate with an aircraft that is not capable of the instrument maneuvers and procedures required on the practical test under the following circumstances—

(1) The rating is limited to ''VFR only.''

(2) The type rating is added to an airline transport pilot certificate that has instrument privileges in that category and class of aircraft.

(3) The ''VFR only'' limitation may be removed for that aircraft type after the applicant:

(i) Passes a practical test in that type of aircraft on the appropriate instrument maneuvers and procedures under § 61.157 of this part; or

(ii) Becomes qualified under § 61.73(d) of this part for that type of aircraft.

(h) *Multiengine airplane with a single-pilot station.* An applicant for a type rating, at the ATP certification level, in a multiengine airplane with a single-pilot station must perform the practical test in the multi-seat version of that airplane, or the practical test may be performed in the single-seat version of that airplane if the Examiner is in a position to observe the applicant during the practical test in the case where there is no multi-seat version of that multiengine airplane.

(i) *Single-engine airplane with a single-pilot station.* An applicant for a type rating, at the ATP certification level, in a single-engine airplane with a single-pilot station must perform the practical test in the multi-seat version of that single-engine airplane, or the practical test may be performed in the single-seat version of that airplane if the Examiner is in a position to observe the applicant during the practical test in the case where there is no multi-seat version of that single-engine airplane.

(j) *Waiver authority.* An Examiner who conducts a practical test may waive any task for which the FAA has provided waiver authority.

31. Amend § 61.159 by adding a new paragraph (c)(3); and revising paragraphs (d) and (e) to read as follows:

§ 61.159 Aeronautical experience: Airplane category rating.

* * * * *

(c) * * *

(3) Flight-engineer time, provided the flight time—

(i) Is acquired as a U.S. Armed Forces' flight engineer crewmember in an airplane that requires a flight engineer crewmember by the flight manual;

(ii) Is acquired while the person is participating in a flight engineer crewmember training program for the U.S. Armed Forces; and

(iii) Does not exceed 1 hour for each 3 hours of flight engineer flight time for a total credited time of no more than 500 hours.

(d) An applicant will be issued an airline transport pilot certificate with the limitation, ''Holder does not meet the pilot in command aeronautical experience requirements of ICAO,'' as prescribed under Article 39 of the Convention on International Civil Aviation, if the applicant does not meet the ICAO requirements contained in Annex 1 ''Personnel Licensing'' to the Convention on International Civil Aviation, but otherwise meets the aeronautical experience requirements of this section.

(e) An applicant is entitled to an airline transport pilot certificate without the ICAO limitation specified under paragraph (d) of this section when the applicant presents satisfactory evidence of having met the ICAO requirements under paragraph (d) of this section and otherwise meets the aeronautical experience requirements of this section.

32. Amend § 61.167 by revising paragraphs (a) and (b)(3) to read as follows:

§ 61.167 Privileges.

(a) A person who holds a valid airline transport pilot certificate is entitled to the same privileges as a person who holds a commercial pilot certificate with an instrument rating.

(b) * * *

(3) Only as provided in this section, except that an airline transport pilot who also holds a current and valid flight instructor certificate can exercise the instructor privileges under subpart H of this part for which he or she is rated; and

* * * * *

33. Amend § 61.187 by revising paragraph (b)(6)(vii) to read as follows:

§ 61.187 Flight proficiency.

* * * * *

(b) * * *

(6) * * *

(vii) Launches and landings;

* * * * *

34. Amend § 61.193 by revising the introductory text to read as follows:

§ 61.193 Flight instructor privileges.

A person who holds a current and valid flight instructor certificate is authorized within the limitations of that person's flight instructor certificate and ratings to train and issue endorsements that are required for:

* * * * *

35. Amend § 61.195 by revising paragraphs (b), (c), and (d)(3) introductory text; and adding a new paragraph (k) to read as follows:

§ 61.195 Flight instructor limitations and qualifications.

* * * * *

(b) *Aircraft Ratings.* A flight instructor may not conduct flight training in any aircraft for which the flight instructor does not hold:

(1) A pilot certificate and flight instructor certificate with the applicable category and class rating; and

(2) If appropriate, a type rating.

(c) *Instrument Rating.* A flight instructor who provides instrument training for the issuance of an instrument rating, a type rating not limited to VFR, or the instrument training required for commercial pilot and airline transport pilot certificates must hold an instrument rating on his or her pilot certificate and flight instructor certificate that is appropriate to the category and class of aircraft for the training provided.

(d) * * *

(3) Student pilot's logbook for solo flight in a Class B airspace area or at an airport within Class B airspace unless that flight instructor has—

* * * * *

(k) *Training for night vision goggle operations.* A flight instructor may not conduct training for night vision goggle operations unless the flight instructor:

(1) Has a pilot and flight instructor certificate with the applicable category and class rating for the training;

(2) If appropriate, has a type rating on his or her pilot certificate for the aircraft;

(3) Is pilot-in-command qualified for night vision goggle operations, in accordance with § 61.31(l);

(4) Has logged 100 night vision goggle operations as the sole manipulator of the controls;

(5) Has logged 20 night vision goggle operations as sole manipulator of the controls in the category and class, and type of aircraft, if aircraft class and type is appropriate, that the training will be given in;

(6) Is qualified and current to act as a pilot in command in night vision goggle operations under § 61.57(f) or (g); and

(7) Has a logbook endorsement from an FAA Aviation Safety Inspector or a person who is authorized by the FAA to provide that logbook endorsement that states the flight instructor is authorized to perform the night vision goggle pilot in command qualification and recent flight experience requirements under § 61.31(l) and § 61.57(f) and (g).

36. Amend § 61.197 by revising the section heading and paragraphs (a) introductory text and (a)(2) introductory text to read as follows:

§ 61.197 Recent flight instructor experience.

(a) A person who holds a valid flight instructor certificate must maintain the privileges under that certificate by—

* * * * *

(2) Filing a completed and signed application and receiving an endorsement from an authorized Examiner in his or her logbook or on another suitable document that is acceptable to the FAA that certifies the flight instructor renewal applicant satisfactorily completed one of the following renewal requirements—

* * * * *

37. Amend § 61.199 by revising the section heading and paragraph (a) to read as follows:

§ 61.199 Expired flight instructor privileges.

(a) *Flight instructor certificates.* The holder of a flight instructor certificate who has not complied with the recent flight instructor experience requirements under § 61.197 may reinstate flight instructor privileges by:

(1) Completing and passing a flight instructor practical test, as prescribed under § 61.183(h); and

(2) Receiving an endorsement in his or her logbook or on another document that is acceptable to the FAA that shows the applicant completed and passed a flight instructor practical test, as prescribed under § 61.183(h).

* * * * *

38. Amend § 61.215 by revising paragraphs (a) introductory text, (b), (c) introductory text, and (d) to read as follows:

§ 61.215 Ground instructor privileges.

(a) A person who holds a current and valid basic ground instructor rating is authorized to provide:

* * * * *

(b) A person who holds a current and valid advanced ground instructor rating is authorized to provide:

(1) Ground training on the aeronautical knowledge areas required for the issuance of any certificate or rating under this part except for the aeronautical knowledge areas required for an instrument rating;

(2) The ground training required for any flight review except for the training required for an instrument rating; and

(3) A recommendation for a knowledge test required for the issuance of any certificate or rating under this part except for an instrument rating.

(c) A person who holds a current and valid instrument ground instructor rating is authorized to provide:

* * * * *

(d) A person who holds a current and valid ground instructor certificate is authorized, within the limitations of the ratings on the certificate, to endorse the logbook or other training record of a person to whom the holder has provided the training or recommendation specified in paragraphs (a) through (c) of this section.

39. Revise § 61.217 to read as follows:

§ 61.217 Recent experience requirements.

The holder of a ground instructor certificate may not perform the duties of a ground instructor unless the person can show that one of the following occurred during the preceding 12 calendar months:

(a) Employment or activity as a ground instructor giving pilot, flight instructor, or ground instructor training;

(b) Employment or activity as a flight instructor giving pilot, flight instructor, or ground instructor ground or flight training;

(c) Completion of an approved flight instructor refresher course and receipt of a graduation certificate for that course; or

(d) An endorsement from an authorized instructor certifying that the person has demonstrated knowledge in the subject areas prescribed under §§ 61.213(a)(3) and (a)(4), as appropriate.

PART 91—GENERAL OPERATING AND FLIGHT RULES

40. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709,

44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

41. Amend § 91.205 by:

A. Re-designating existing paragraph (h) as paragraph (i); and

B. Adding a new paragraph (h) to read as follows:

§ 91.205 Powered civil aircraft with standard category U.S. airworthiness certificates; Instrument and equipment requirements.

* * * * *

(h) *Night vision goggle operations.* For night vision goggle operations, the following instruments and equipment must be installed in the aircraft, functioning in a normal manner, and approved for use by the FAA:

(1) Instruments and equipment specified in paragraph (b) of this section, instruments and equipment specified in paragraph (c) of this section;

(2) Night vision goggles;

(3) Interior and exterior aircraft lighting system required for night vision goggle operations;

(4) Two-way radio communications system;

(5) Gyroscopic pitch and bank indicator (artificial horizon); and

(6) Generator or alternator of adequate capacity for the required instruments and equipment.

* * * * *

PART 141—PILOT SCHOOLS

42. The authority citation for 14 CFR part 141 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701–44703, 44707, 44709, 44711, 45102–45103, 45301–45302.

43. Revise § 141.5 to read as follows:

§ 141.5 Requirements for a pilot school certificate.

The FAA may issue a pilot school certificate with the appropriate ratings if, within the 24 calendar months before the date application is made, the applicant—

(a) Completes the application for a pilot school certificate on the form and in the manner prescribed by the FAA;

(b) Has held a provisional pilot school certificate;

(c) Meets the applicable requirements under subparts A through C of this part for the school certificate and associated ratings sought;

(d) Has trained and recommended 10 different people for a knowledge test or a practical test, or any combination thereof, and 80 percent of those persons passed their tests on the first attempt; and

(e) Has graduated 10 different people from the school's approved training courses.

44. Revise § 141.9 to read as follows:

§ 141.9 Examining authority.

The FAA issues examining authority to a pilot school for a training course if the pilot school and its training course meet the requirements of subpart D of this part.

45. Amend § 141.33 by revising paragraph (d)(2) to read as follows:

§ 141.33 Personnel.

* * * * *

(d) * * *

(2) The school has an enrollment of 10 students at the time designation is sought.

* * * * *

46. Revise § 141.39 to read as follows:

§ 141.39 Aircraft.

(a) When the school's training facility is located within the U.S., an applicant for a pilot school certificate or provisional pilot school certificate must show that each aircraft used by the school for flight training and solo flights:

(1) Is a civil aircraft of the United States;

(2) Is certificated with a standard or primary airworthiness certificate, unless the FAA determines otherwise because of the nature of the approved course;

(3) Is maintained and inspected in accordance with the requirements for aircraft operated for hire under part 91, subpart E of this chapter;

(4) Has two pilot stations with engine-power controls that can be easily reached and operated in a normal manner from both pilot stations (for flight training); and

(5) Is equipped and maintained for IFR operations if used in a course involving IFR en route operations and instrument approaches. For training in the control and precision maneuvering of an aircraft by reference to instruments, the aircraft may be equipped as provided in the approved course of training.

(b) When the school's training facility is located outside the U.S. and the training will be conducted outside the U.S., an applicant for a pilot school certificate or provisional pilot school certificate must show that each aircraft used by the school for flight training and solo flights:

(1) Is either a civil aircraft of the United States or a civil aircraft of foreign registry;

(2) Is certificated with a standard or primary airworthiness certificate or an equivalent certification from the foreign aviation authority;

(3) Is maintained and inspected in accordance with the requirements for aircraft operated for hire under part 91, subpart E of this chapter, or in accordance with equivalent maintenance and inspection from the foreign aviation authority's requirements;

(4) Has two pilot stations with engine-power controls that can be easily reached and operated in a normal manner from both pilot stations (for flight training); and

(5) Is equipped and maintained for IFR operations if used in a course involving IFR en route operations and instrument approaches. For training in the control and precision maneuvering of an aircraft by reference to instruments, the aircraft may be equipped as provided in the approved course of training.

47. Amend § 141.53 by revising paragraph (c) to read as follows:

§ 141.53 Approval procedures for a training course: General.

* * * * *

(c) *Training courses.* An applicant for a pilot school certificate or provisional pilot school certificate may request approval for the training courses specified under § 141.11(b).

48. Amend § 141.55 by revising paragraphs (d) introductory text, (e) introductory text, and (e)(2)(ii) introductory text to read as follows:

§ 141.55 Training course: Contents.

* * * * *

(d) A pilot school may request and receive initial approval for a period of not more than 24 calendar months for any training course under this part that does not meet the minimum ground and flight training time requirements, provided the following provisions are met:

* * * * *

(e) A pilot school may request and receive final approval for any training course under this part that does not meet the minimum ground and flight training time requirements, provided the following conditions are met:

(2) * * *

(ii) At least 80 percent of those students passed the practical or knowledge test, as appropriate, on the first attempt, and that test was given by—

* * * * *

49. Amend § 141.77 by revising paragraph (c) to read as follows:

§ 141.77 Limitations.

* * * * *

(c) A student may be given credit towards the curriculum requirements of a course for previous training under the following conditions:

(1) If the student completed a proficiency test and knowledge test that was conducted by the receiving pilot school and the previous training was based on a part 141 or a part 142-approved flight training course, the credit is limited to not more than 50 percent of the flight training requirements of the curriculum.

(2) If the student completed a knowledge test that was conducted by the receiving pilot school and the previous training was based on a part 141 or a part 142-approved aeronautical knowledge training course, the credit is limited to not more than 50 percent of the aeronautical knowledge training requirements of the curriculum.

(3) If the student completed a proficiency test and knowledge test that was conducted by the receiving pilot school and the training was received from other than a part 141 or a part 142-approved flight training course, the credit is limited to not more than 25 percent of the flight training requirements of the curriculum.

(4) If the student completed a knowledge test that was conducted by the receiving pilot school and the previous training was received from other than a part 141 or a part 142-approved aeronautical knowledge training course, the credit is limited to not more than 25 percent of the aeronautical knowledge training requirements of the curriculum.

(5) Completion of previous training must be certified in the student's training record by the training provider or a management official within the training provider's organization, and must contain—

(i) The kind and amount of training provided; and

(ii) The result of each stage check and end-of-course test, if appropriate.

50. Amend § 141.85 by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 141.85 Chief instructor responsibilities.

(a) A chief instructor designated for a pilot school or provisional pilot school is responsible for:

(1) Certifying each student's training record, graduation certificate, stage check and end-of-course test reports, and recommendation for course completion, unless the duties are delegated by the chief instructor to an assistant chief instructor or recommending instructor;

* * * * *

51. Amend Appendix B to part 141 by revising paragraph 2; paragraphs 4.(b)(1)(iii), 4.(b)(2)(iii), and 4.(b)(5)(iii); and 5.(a)(1), 5.(b)(1), 5.(c)(1), 5.(d)(1), and 5.(e)(1) to read as follows:

Appendix B to Part 141—Private Pilot Certification Course

* * * * *

2. *Eligibility for enrollment.* A person must hold a valid recreational pilot certificate or valid student pilot certificate prior to enrollment in the solo flight phase of the private pilot certification course.

* * * * *

4. * * *

(b) * * *

(1) * * *

(iii) 3 hours of flight training in a single-engine airplane on the control and maneuvering of a single-engine airplane solely by reference to instruments, including straight and level flight, constant airspeed climbs and descents, turns to a heading, recovery from unusual flight attitudes, radio communications, and the use of navigation systems/facilities and radar services appropriate to instrument flight; and

* * * * *

(2) * * *

(iii) 3 hours of flight training in a multiengine airplane on the control and maneuvering of a multiengine airplane solely by reference to instruments, including straight and level flight, constant airspeed climbs and descents, turns to a heading, recovery from unusual flight attitudes, radio communications, and the use of navigation systems/facilities and radar services appropriate to instrument flight; and

* * * * *

(5) * * *

(iii) 3 hours of flight training in a powered-lift on the control and maneuvering of a powered-lift solely by reference to instruments, including straight and level flight, constant airspeed climbs and descents, turns to a heading, recovery from unusual flight attitudes, radio communications, and the use of navigation systems/facilities and radar services appropriate to instrument flight; and

* * * * *

5. * * *

(a) * * *

(1) One solo 100 nautical miles cross-country flight with landings at a minimum of three points and one segment of the flight consisting of a straight-line distance of more than 50 nautical miles between the takeoff and landing locations; and

* * * * *

(b) * * *

(1) One 100 nautical miles cross-country flight with landings at a minimum of three points and one segment of the flight consisting of a straight-line distance of more than 50 nautical miles between the takeoff and landing locations; and

* * * * *

(c) * * *

(1) One solo 100 nautical miles cross-country flight with landings at a minimum of three points and one segment of the flight consisting of a straight-line distance of more than 25 nautical miles between the takeoff and landing locations; and

* * * * *

(d) * * *

(1) One solo 100 nautical miles cross-country flight with landings at a minimum of three points and one segment of the flight consisting of a straight-line distance of more than 25 nautical miles between the takeoff and landing locations; and

* * * * *

(e) * * *

(1) One solo 100 nautical miles cross-country flight with landings at a minimum of three points and one segment of the flight consisting of a straight-line distance of more than 50 nautical miles between the takeoff and landing locations; and

* * * * *

52. Amend Appendix C to part 141 by revising paragraphs 4.(b)(2) through 4.(b)(4); adding new paragraphs 4.(b)(5) and (6); and revising the introductory language of paragraph 4.(d) to read as follows:

Appendix C to Part 141—Instrument Rating Course

* * * * *

4. * * *

(b) * * *

(1) * * *

(2) Credit for training in a flight simulator that meets the requirements of § 141.41(a) of this part cannot exceed 50 percent of the total flight training hour requirements of the course or of this section, whichever is less.

(3) Credit for training in a flight training device that meets the requirements of § 141.41(b) of this part cannot exceed 40 percent of the total flight training hour requirements of the course or of this section, whichever is less.

(4) Credit for training in flight simulators and flight training devices, if used in combination, cannot exceed 50 percent of the total flight training hour requirements of the course or of this section, whichever is less. However, credit for training in a flight training device cannot exceed the limitation provided for in paragraph (b)(3) of this section.

(5) Credit for training in an approved personal computer aviation training device cannot exceed 10 percent of the total flight training hour requirements of the course or of this section, whichever is less.

(6) Credit for training in flight simulators, flight training devices, and personal computer aviation training devices, if used in combination, cannot exceed 50 percent of the total flight training hour requirements of the course or of this section, whichever is less. However, credit for training in a personal computer aviation training device cannot exceed the limitation provided under paragraph (b)(5) of this section.

* * * * *

(d) Each course must include flight training on the areas of operation listed under this paragraph appropriate to the instrument aircraft category and class rating (if a class

rating is appropriate) for which the course applies:

* * * * *

53. Amend Appendix D to part 141 by revising paragraphs 4.(b)(1)(i), (ii), (iii), and (iv); revising paragraphs 4.(b)(2)(i), (iii), and (iv); revising paragraphs 4.(b)(3)(i), (ii), and (iii); revising paragraphs 4.(b)(4)(i), (ii), and (iii), 4.(b)(5)(i), (ii), and (iii); revising paragraphs 4.(b)(7)(i), (ii), and (iii); re-designating paragraphs 4.(d)(4)(vi) through (ix) as 4.(d)(4)(vii) through (x); adding a new paragraph 4.(d)(4)(vi); and revising the introductory language of paragraphs 5.(a), (b), (c), (d), and (e) to read as follows:

Appendix D to Part 141—Commercial Pilot Certification Course

* * * * *

4. * * *

(b) * * *

(1) * * *

(i) 10 hours of instrument training using a view limiting device including attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems. 5 of the 10 hours of instrument training must be in a single-engine airplane;

(ii) 10 hours of training in an airplane that has a retractable landing gear, flaps, and a controllable pitch propeller, or is turbine-powered;

(iii) One 2-hour cross-country flight in day-time conditions in a single-engine airplane that consists of a total straight-line distance of more than 100 nautical miles from the original point of departure;

(iv) One 2-hour cross-country flight in night-time conditions in a single-engine airplane that consists of a total straight-line distance of more than 100 nautical miles from the original point of departure; and

* * * * *

(2) * * *

(i) 10 hours of instrument training using a view limiting device including attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems. 5 of the 10 hours of instrument training must be in a multiengine airplane;

* * * * *

(iii) One 2-hour cross-country flight in day-time conditions in a multiengine airplane that consists of a total straight-line distance of more than 100 nautical miles from the original point of departure;

(iv) One 2-hour cross-country flight in night-time conditions in a multiengine airplane that consists of a total straight-line distance of more than 100 nautical miles from the original point of departure; and

* * * * *

(3) * * *

(i) 5 hours on the control and maneuvering of a helicopter solely by reference to instruments, including using a view limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems. This aeronautical experience may be performed in an aircraft, flight simulator, flight training device, or a personal computer aviation training device;

(ii) One 2-hour cross-country flight in day-time conditions in a helicopter that consists of a total straight-line distance of more than 50 nautical miles from the original point of departure;

(iii) One 2-hour cross-country flight in night-time conditions in a helicopter that consists of a total straight-line distance of more than 50 nautical miles from the original point of departure; and

* * * * *

(4) * * *

(i) 2.5 hours on the control and maneuvering of a gyroplane solely by reference to instruments, including using a view limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems. This aeronautical experience may be performed in an aircraft, flight simulator, flight training device, or a personal computer aviation training device;

(ii) One 2-hour cross-country flight in day-time conditions in a gyroplane that consists of a total straight-line distance of more than 50 nautical miles from the original point of departure;

(iii) 2 hours of flight training in night-time conditions in a gyroplane at an airport, that includes 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern); and

* * * * *

(5) * * *

(i) 10 hours of instrument training using a view limiting device including attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems. Five of the 10 hours of instrument training must be in a powered-lift;

(ii) One 2-hour cross-country flight in day-time conditions in a powered-lift that consists of a total straight-line distance of more than 100 nautical miles from the original point of departure;

(iii) One 2-hour cross-country flight in night-time conditions in a powered-lift that consists of a total straight-line distance of more than 100 nautical miles from the original point of departure; and

* * * * *

(7) * * *

(i) 3 hours of instrument training in an airship, including using a view limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems;

(ii) One 1-hour cross-country flight in day-time conditions in an airship that consists of a total straight-line distance of more than 25 nautical miles from the original point of departure;

(iii) One 1-hour cross-country flight in night-time conditions in an airship that consists of a total straight-line distance of more than 25 nautical miles from the original point of departure; and

* * * * *

(d) * * *

(4) * * *

(vi) Ground reference maneuvers;

5. * * *

(a) *For an airplane single-engine course.* 10 hours of solo flight time in a single-engine airplane, or 10 hours of flight time while performing the duties of pilot in command in a single-engine airplane with an authorized instructor on board. The training must consist of the approved areas of operation under paragraph (d)(1) of section No. 4 of this appendix, and include—

* * * * *

(b) *For an airplane multiengine course.* 10 hours of solo flight time in a multiengine airplane, or 10 hours of flight time while performing the duties of pilot in command in a multiengine airplane with an authorized instructor on board. The training must consist of the approved areas of operation under paragraph (d)(2) of section No. 4 of this appendix, and include—

* * * * *

(c) *For a rotorcraft helicopter course.* 10 hours of solo flight time in a helicopter, or 10 hours of flight time while performing the duties of pilot in command in a helicopter with an authorized instructor on board. The training must consist of the approved areas of operation under paragraph (d)(3) of section No. 4 of this appendix, and include—

* * * * *

(d) *For a rotorcraft-gyroplane course.* 10 hours of solo flight time in a gyroplane, or 10 hours of flight time while performing the duties of pilot in command in a gyroplane with an authorized instructor on board. The training must consist of the approved areas of operation under paragraph (d)(4) of section No. 4 of this appendix, and include—

* * * * *

(e) *For a powered-lift course.* 10 hours of solo flight time in a powered-lift, or 10 hours of flight time while performing the duties of pilot in command in a powered-lift with an authorized instructor on board. The training must consist of the approved areas of operation under paragraph (d)(5) of section No. 4 of this appendix, and include—

* * * * *

54. Amend Appendix E to part 141 by revising the introductory text of paragraph 2; removing paragraph 2.(a); re-designating existing paragraph 2.(b) as 2.(a) revising newly re-designated paragraph 2.(a); re-designating paragraph 2.(c) as (b); and re-designating paragraph 2.(d) as (c) to read as follows:

Appendix E to Part 141—Airline Transport Pilot Certification Course

* * * * *

2. *Eligibility for enrollment.* Before completing the flight portion of the airline transport pilot certification course, a person must meet the aeronautical experience requirements for an airline transport pilot certificate under part 61, subpart G of this chapter that is appropriate to the aircraft category and class rating for which the course applies, and:

(a) Hold a commercial pilot certificate and an instrument rating, or an airline transport pilot certificate with instrument privileges;

* * * * *

55. Amend Appendix I to part 141 by revising the appendix heading; and revising paragraphs 3 and 4 to read as follows:

Appendix I to Part 141—Additional Aircraft Category and/or Class Rating Course

* * * * *

3. *Aeronautical knowledge training.* (a) For a recreational pilot certificate, the following aeronautical knowledge areas must be included in a 10-hour ground training course for an additional aircraft category and/or class rating:

(1) Applicable Federal Aviation Regulations for recreational pilot privileges, limitations, and flight operations;

(2) Safe and efficient operation of aircraft, including collision avoidance, and recognition and avoidance of wake turbulence;

(3) Effects of density altitude on takeoff and climb performance;

(4) Weight and balance computations;

(5) Principles of aerodynamics, powerplants, and aircraft systems;

(6) Stall awareness, spin entry, spins, and spin recovery techniques if applying for an airplane single-engine rating; and

(7) Preflight action that includes how to obtain information on runway lengths at airports of intended use, data on takeoff and landing distances, weather reports and forecasts, and fuel requirements.

(b) For a private pilot certificate, the following aeronautical knowledge areas must be included in a 10-hour ground training course for an additional class rating or a 15-hour ground training course for an additional aircraft category and class rating:

(1) Applicable Federal Aviation Regulations for private pilot privileges, limitations, and flight operations;

(2) Safe and efficient operation of aircraft, including collision avoidance, and recognition and avoidance of wake turbulence;

(3) Effects of density altitude on takeoff and climb performance;

(4) Weight and balance computations;

(5) Principles of aerodynamics, powerplants, and aircraft systems;

(6) Stall awareness, spin entry, spins, and spin recovery techniques if applying for an airplane single-engine rating; and

(7) Preflight action that includes how to obtain information on runway lengths at airports of intended use, data on takeoff and landing distances, weather reports and forecasts, and fuel requirements.

(c) For a commercial pilot certificate, the following aeronautical knowledge areas must be included in a 15-hour ground training course for an additional class rating or a 20-hour ground training course for an additional aircraft category and class rating:

(1) Federal Aviation Regulations that apply to commercial pilot privileges, limitations, and flight operations;

(2) Basic aerodynamics and the principles of flight;

(3) Safe and efficient operation of aircraft;

(4) Weight and balance computations;

(5) Use of performance charts;

(6) Significance and effects of exceeding aircraft performance limitations;

(7) Principles and functions of aircraft systems;

(8) Maneuvers, procedures, and emergency operations appropriate to the aircraft;

(9) Night-time and high-altitude operations; and

(10) Procedures for flight and ground training for lighter-than-air ratings.

(d) For an airline transport pilot certificate, the following aeronautical knowledge areas must be included in a 25-hour ground training course for an additional aircraft category and/or class rating:

(1) Applicable Federal Aviation Regulations that relate to airline transport pilot privileges, limitations, and flight operations;

(2) Meteorology, including knowledge of and effects of fronts, frontal characteristics, cloud formations, icing, and upper-air data;

(3) General system of weather and NOTAM collection, dissemination, interpretation, and use;

(4) Interpretation and use of weather charts, maps, forecasts, sequence reports, abbreviations, and symbols;

(5) National Weather Service functions as they pertain to operations in the National Airspace System;

(6) Windshear and microburst awareness, identification, and avoidance;

(7) Principles of air navigation under instrument meteorological conditions in the National Airspace System;

(8) Air traffic control procedures and pilot responsibilities as they relate to en route operations, terminal area and radar operations, and instrument departure and approach procedures;

(9) Aircraft loading; weight and balance; use of charts, graphs, tables, formulas, and computations; and the effects on aircraft performance;

(10) Aerodynamics relating to an aircraft's flight characteristics and performance in normal and abnormal flight regimes;

(11) Human factors;

(12) Aeronautical decision making and judgment; and

(13) Crew resource management to include crew communication and coordination.

4. Flight training.

(a) Course for an additional airplane category and single-engine class rating.

(1) For the recreational pilot certificate, the course must include 15 hours of flight training on the areas of operations under part 141, appendix A, paragraph 4(c)(1) that include—

(i) 2 hours of flight training to an airport and at an airport that is located more than 25 nautical miles from the airport where the applicant normally trains, with three takeoffs and three landings, except as provided under § 61.100 of this chapter; and

(ii) 3 hours of flight training in an aircraft with the airplane category and single-engine class within 2 calendar months before the date of the practical test.

(2) For the private pilot certificate, the course must include 20 hours of flight training on the areas of operations under part 141, appendix B, paragraph 4(d)(1). A flight simulator and flight training device cannot be used to meet more than 4 hours of the training requirements, and the use of the flight training device is limited to 3 of the 4 hours. The course must include—

(i) 3 hours of cross-country training in a single-engine airplane, except as provided under § 61.111 of this chapter;

(ii) 3 hours of night-time flight training in a single-engine airplane that includes one cross-country flight of more than 100 nautical miles total distance, and 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport;

(iii) 3 hours of flight training in a single-engine airplane on the control and maneuvering of the airplane solely by reference to instruments, including straight and level flight, constant airspeed climbs and descents, turns to a heading, recovery from unusual flight attitudes, radio communications, and the use of navigation systems/facilities and radar services appropriate to instrument flight; and

(iv) 3 hours of flight training in a single-engine airplane within 2 calendar months before the date of the practical test.

(3) For the commercial pilot certificate, the course must include 55 hours of flight training on the areas of operations under part 141, appendix D, paragraph 4(d)(1). A flight simulator and flight training device cannot be used to meet more than 16.5 hours of the training requirements, and the use of the flight training device is limited to 11 of the 16.5 hours. The course must include—

(i) 5 hours of instrument training in a single-engine airplane that includes training using a view limiting device on attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems;

(ii) 10 hours of training in an airplane that has retractable landing gear, flaps, and a controllable pitch propeller, or is turbine-powered;

(iii) One 2-hour cross-country flight during day-time conditions in a single-engine airplane, a total straight-line distance of more than 100 nautical miles from the original point of departure;

(iv) One 2-hour cross-country flight during night-time conditions in a single-engine airplane, a total straight-line distance of more than 100 nautical miles from the original point of departure; and

(v) 3 hours in a single-engine airplane within 2 calendar months before the date of the practical test.

(4) For the airline transport pilot certificate, the course must include 25 hours flight training, including 15 hours of instrument training, in a single-engine airplane on the areas of operation under part 141, appendix E, paragraph 4.(c). A flight simulator and flight training device cannot be used to meet more than 12.5 hours of the training requirements; and the use of the flight training device is limited to 6.25 of the 12.5 hours.

(b) Course for an additional airplane category and multiengine class rating.

(1) For the private pilot certificate, the course requires 20 hours flight training on the areas of operations under part 141, appendix B, paragraph 4.(d)(2). A flight simulator and flight training device cannot be used more than 4 hours to meet the training requirements, and use of the flight training device is limited to 3 of the 4 hours. The course must include—

(i) 3 hours of cross-country training in a multiengine airplane, except as provided under § 61.111 of this chapter;

(ii) 3 hours of night-time flight training in a multiengine airplane that includes one cross-country flight of more than 100 nautical miles total distance, and 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport;

(iii) 3 hours of flight training in a multiengine airplane on the control and maneuvering of a multiengine airplane solely by reference to instruments, including straight and level flight, constant airspeed climbs and descents, turns to a heading, recovery from unusual flight attitudes, radio communications, and the use of navigation systems/facilities and radar services appropriate to instrument flight; and

(iv) 3 hours of flight training in a multiengine airplane in preparation for the practical test within 2 calendar months before the date of the test.

(2) For the commercial pilot certificate, the course requires 55 hours flight training on the areas of operations under part 141, appendix D, paragraph 4.(d)(2). A flight simulator and flight training device cannot be used more than 16.5 hours to meet the training requirements, and use of the flight training device is limited to 11 of the 16.5 hours. The course must include—

(i) 5 hours of instrument training in a multiengine airplane including training using a view limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems;

(ii) 10 hours of training in a multiengine airplane that has retractable landing gear, flaps, and a controllable pitch propeller, or is turbine-powered;

(iii) One 2-hour cross-country flight during day-time conditions in a multiengine airplane, and a total straight-line distance of more than 100 nautical miles from the original point of departure;

(iv) One 2-hour cross-country flight during night-time conditions in a multiengine airplane, and a total straight-line distance of more than 100 nautical miles from the original point of departure; and

(v) 3 hours in a multiengine airplane within 2 calendar months before the date of the practical test.

(3) For the airline transport pilot certificate, the course requires 25 hours of flight training in a multiengine airplane on the areas of operation under part 141, appendix E, paragraph 4.(c) that includes 15 hours of instrument training. A flight simulator and flight training device cannot be used more than 12.5 hours to meet the training requirements, and use of the flight training device is limited to 6.25 of the 12.5 hours.

(c) Course for an additional rotorcraft category and helicopter class rating.

(1) For the recreational pilot certificate, the course requires 15 hours of flight training on the areas of operations under part 141, appendix A, paragraph 4.(c)(2) that includes—

(i) 2 hours of flight training to and at an airport that is located more than 25 nautical miles from the airport where the applicant normally trains, with three takeoffs and three landings, except as provided under § 61.100 of this chapter; and

(ii) 3 hours of flight training in a rotorcraft category and a helicopter class aircraft within 2 calendar months before the date of the practical test.

(2) For the private pilot certificate, the course requires 20 hours flight training on the areas of operations under part 141, appendix B, paragraph 4.(d)(3). A flight simulator and flight training device cannot be used more than 4 hours to meet the training requirements, and use of the flight training device is limited to 3 of the 4 hours. The course must include—

(i) Except as provided under § 61.111 of this chapter, 3 hours of cross-country flight training in a helicopter;

(ii) 3 hours of night-time flight training in a helicopter that includes one cross-country flight of more than 50-nautical-miles total distance, and 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport; and

(iii) 3 hours of flight training in a helicopter within 2 calendar months before the date of the practical test.

(3) The commercial pilot certificate level requires 30 hours flight training on the areas of operations under appendix D of part 141, paragraph 4.(d)(3). A flight simulator and flight training device cannot be used more than 9 hours to meet the training requirements, and use of the flight training device is limited to 6 of the 9 hours. The course must include—

(i) 5 hours on the control and maneuvering of a helicopter solely by reference to instruments, and must include training using a view limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems. This aeronautical experience may be performed in an aircraft, flight simulator, flight training device, or a personal computer aviation training device;

(ii) One 2-hour cross-country flight during day-time conditions in a helicopter, a total straight-line distance of more than 50 nautical miles from the original point of departure;

(iii) One 2-hour cross-country flight during night-time conditions in a helicopter, a total straight-line distance of more than 50 nautical miles from the original point of departure; and

(iv) 3 hours in a helicopter within 2 calendar months before the date of the practical test.

(4) For the airline transport pilot certificate, the course requires 25 hours of flight training, including 15 hours of instrument training, in a helicopter on the areas of operation under part 141, appendix E, paragraph 4.(c). A flight simulator and flight training device cannot be used more than 12.5 hours to meet the training requirements, and use of the flight training device is limited to 6.25 of the 12.5 hours.

(d) Course for an additional rotorcraft category and a gyroplane class rating.

(1) For the recreational pilot certificate, the course requires 15 hours flight training on the areas of operations under part 141, appendix A, paragraph 4.(c)(3) that includes—

(i) 2 hours of flight training to and at an airport that is located more than 25 nautical miles from the airport where the applicant normally trains, with three takeoffs and three landings, except as provided under § 61.100 of this chapter; and

(ii) 3 hours of flight training in a gyroplane class within 2 calendar months before the date of the practical test.

(2) For the private pilot certificate, the course requires 20 hours flight training on the areas of operations under part 141, appendix B, paragraph 4.(d)(4). A flight simulator and flight training device cannot be used more than 4 hours to meet the training requirements, and use of the flight training device is limited to 3 of the 4 hours. The course must include—

(i) 3 hours of cross-country flight training in a gyroplane, except as provided under § 61.111 of this chapter;

(ii) 3 hours of night-time flight training in a gyroplane that includes one cross-country flight of more than 50-nautical miles total distance, and 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport; and

(iii) 3 hours of flight training in a gyroplane within 2 calendar months before the date of the practical test.

(3) For the commercial pilot certificate, the course requires 30 hours flight training on the areas of operations of appendix D to part 141, paragraph 4.(d)(4). A flight simulator and flight training device cannot be used more than 6 hours to meet the training requirements, and use of the flight training device is limited to 6 of the 9 hours. The course must include—

(i) 2.5 hours on the control and maneuvering of a gyroplane solely by reference to instruments, and must include training using a view limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems. This aeronautical experience may be performed in an aircraft, flight simulator, flight training device, or a personal computer aviation training device.

(ii) One 2-hour cross-country flight during day-time conditions in a gyroplane, a total straight-line distance of more than 50 nautical miles from the original point of departure;

(iii) 2 hours of flight training during night-time conditions in a gyroplane at an airport, that includes 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern); and

(iv) 3 hours in a gyroplane within 2 calendar months before the date of the practical test.

(e) Course for an additional lighter-than-air category and airship class rating.

(1) For the private pilot certificate, the course requires 20 hours of flight training on the areas of operation under part 141, appendix B, paragraph 4.(d)(7). A flight simulator and flight training device cannot be used more than 4 hours to meet the training requirements, and use of the flight training device is limited to 3 of the 4 hours. The course must include—

(i) 3 hours of cross-country flight training in an airship, except as provided under § 61.111 of this chapter;

(ii) 3 hours of night-time flight training in an airship that includes one cross-country flight of more than 25-nautical miles total distance and five takeoffs and five landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport;

(iii) 3 hours of flight training in an airship on the control and maneuvering of an airship solely by reference to instruments, including straight and level flight, constant airspeed climbs and descents, turns to a heading, recovery from unusual flight attitudes, radio communications, and the use of navigation systems/facilities and radar services appropriate to instrument flight; and

(iv) 3 hours of flight training in an airship within 2 calendar months before the date of the practical test.

(2) For the commercial pilot certificate, the course requires 55 hours of flight training on the areas of operation under part 141, appendix D, paragraph 4.(d)(7). A flight simulator and flight training device cannot be used more than 16.5 hours to meet the training requirements, and use of the flight training device is limited to 11 of the 16.5 hours. The course must include—

(i) 3 hours of instrument training in an airship that must include training using a view limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems;

(ii) One 1-hour cross-country flight during day-time conditions in an airship that consists of a total straight-line distance of more than 25 nautical miles from the original point of departure;

(iii) One 1-hour cross-country flight during night-time conditions in an airship that consists of a total straight-line distance of more than 25 nautical miles from the original point of departure; and

(iv) 3 hours of flight training in an airship within 2 calendar months before the date of the practical test.

(f) Course for an additional lighter-than-air category and a gas balloon class rating.

(1) For the private pilot certificate, the course requires eight hours of flight training that includes five training flights on the areas of operations under part 141, appendix B, paragraph 4(d)(8). A flight simulator and flight training device cannot be used more than 1.6 hours to meet the training requirements, and use of the flight training device is limited to 1.2 of the 1.6 hours. The course must include—

(i) Two flights of 1 hour each;

(ii) One flight involving a controlled ascent to 3,000 feet above the launch site; and

(iii) Two flights within 2 calendar months before the date of the practical test.

(2) For the commercial pilot certificate, the course requires 10 hours of flight training that includes eight training flights on the areas of operations under part 141, appendix D, paragraph 4(d)(8). A flight simulator and flight training device cannot be used more than 3 hours to meet the training requirements, and use of the flight training device is limited to 2 of the 3 hours. The course must include—

(i) Two flights of 1 hour each;

(ii) One flight involving a controlled ascent to 5,000 feet above the launch site; and

(iii) Two flights within 2 calendar months before the date of the practical test.

(g) Course for an additional lighter-than-air category and a hot air balloon class rating.

(1) For the private pilot certificate, the course requires eight hours of flight training that includes five training flights on the areas of operations under part 141, appendix B, paragraph 4(d)(8). A flight simulator and flight training device cannot be used more than 1.6 hours to meet the training requirements, and use of the flight training device is limited to 1.2 of the 1.6 hours. The course must include—

(i) Two flights of 30 minutes each;

(ii) One flight involving a controlled ascent to 2,000 feet above the launch site; and

(iii) Two flights within 2 calendar months before the date of the practical test.

(2) For the commercial pilot certificate, the course requires 10 hours of flight training that includes eight training flights on the areas of operation under part 141, appendix D, paragraph 4(d)(8). A flight simulator and flight training device cannot be used more than 3 hours to meet the training requirements, and use of the flight training device is limited to 2 of the 3 hours. The course must include—

(i) Two flights of 30 minutes each;

(ii) One flight involving a controlled ascent to 3,000 feet above the launch site; and

(iii) Two flights within 2 calendar months before the date of the practical test.

(h) Course for an additional powered-lift category rating.

(1) For the private pilot certificate, the course requires 20 hours flight training on the areas of operations under part 141, appendix B, paragraph 4(d)(5). A flight simulator and flight training device cannot be used more than 4 hours to meet the training requirements, and use of the flight training device is limited to 3 of the 4 hours. The course must include—

(i) 3 hours of cross-country flight training in a powered-lift except as provided under § 61.111 of this chapter;

(ii) 3 hours of night-time flight training in a powered-lift that includes one cross-country flight of more than 100-nautical-miles total distance, and 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport;

(iii) 3 hours of flight training in a powered-lift on the control and maneuvering of a powered-lift solely by reference to instruments, including straight and level flight, constant airspeed climbs and descents, turns to a heading, recovery from unusual flight attitudes, radio communications, and the use of navigation systems/facilities and radar services appropriate to instrument flight;

(iv) 3 hours of flight training in a powered-lift within 2 calendar months before the date of the practical test.

(2) For the commercial pilot certificate, the course requires 55 hours flight training on the areas of operations under part 141, appendix D, paragraph 4(d)(5). A flight simulator and flight training device cannot be used more than 16.5 hours to meet the training requirements, and use of the flight training device is limited to 11 of the 16.5 hours. The course includes—

(i) 5 hours of instrument training in a powered-lift that must include training using a view limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems;

(ii) One 2-hour cross-country flight during day-time conditions in a powered-lift, a total straight-line distance of more than 100 nautical miles from the original point of departure;

(iii) One 2-hour cross-country flight during night-time conditions in a powered-lift, a total straight-line distance of more than 100 nautical miles from the original point of departure; and

(iv) 3 hours of flight training in a powered-lift within 2 calendar months before the date of the practical test.

(3) For the airline transport pilot certificate, the course requires 25 hours flight training in a powered-lift on the areas of operation under part 141, appendix E, paragraph 4(c) that includes 15 hours of instrument training. A flight simulator and flight training device cannot be used more than 12.5 hours to meet the training requirements, and use of the flight training device is limited to 6.25 of the 12.5 hours.

(i) Course for an additional glider category rating.

(1) For the private pilot certificate, the course requires 4 hours of flight training in a glider on the areas of operations under part 141, appendix B, paragraph 4(d)(6). A flight simulator and flight training device cannot be used more than 0.8 hours to meet the training requirements, and use of the flight training device is limited to 0.6 of the 0.8 hours. The course must include—

(i) Five training flights in a glider with a certificated flight instructor on the launch/tow procedures approved for the course and on the appropriate approved areas of operation listed under appendix B, paragraph 4(d)(6) of this part; and

(ii) Three training flights in a glider with a certificated flight instructor within 2 calendar months before the date of the practical test.

(2) The commercial pilot certificate level requires 4 hours of flight training in a glider on the areas of operation under part 141, appendix D, paragraph 4(d)(6). A flight simulator and flight training device cannot be used more than 0.8 hours to meet the training requirements, and use of the flight training device is limited to 0.6 of the 0.8 hours. The course must include—

(j) Course for an airplane additional single-engine class rating.

(1) For the private pilot certificate, the course requires 3 hours of flight training. in the areas of operations under part 141,

appendix B, paragraph 4(d)(1). A flight simulator and flight training device cannot be used more than 0.6 hours to meet the training requirements, and use of the flight training device is limited to 0.4 of the 0.6 hours. The course must include—

(i) 3 hours of cross-country training in a single-engine airplane, except as provided under § 61.111 of this chapter;

(ii) 3 hours of night-time flight training in a single-engine airplane that includes one cross-country flight of more than 100 nautical miles total distance in a single-engine airplane and 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport;

(iii) 3 hours of flight training in a single-engine airplane on the control and maneuvering of a single-engine airplane solely by reference to instruments, including straight and level flight, constant airspeed climbs and descents, turns to a heading, recovery from unusual flight attitudes, radio communications, and the use of navigation systems/facilities and radar services appropriate to instrument flight; and

(iv) 3 hours of flight training in a single-engine airplane within 2 calendar months before the date of the practical test.

(2) For the commercial pilot certificate, the course requires 10 hours of flight training on the areas of operations under part 141, appendix D, paragraph 4.(d)(1).

(i) 5 hours of instrument training in a single-engine airplane that must include training using a view limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems.

(ii) 10 hours of flight training in an airplane that has retractable landing gear, flaps, and a controllable pitch propeller, or is turbine-powered.

(iii) One 2-hour cross-country flight during day-time conditions in a single-engine airplane and a total straight-line distance of more than 100 nautical miles from the original point of departure;

(iv) One 2-hour cross-country flight during night-time conditions in a single-engine airplane and a total straight-line distance of more than 100 nautical miles from the original point of departure; and

(v) 3 hours of flight training in a single-engine airplane within 2 calendar months before the date of the practical test.

(3) For the airline transport pilot certificate, the course requires 25 hours flight training in a single-engine airplane on the areas of operation under appendix E to part 141, paragraph 4.(c), that includes 15 hours of instrument training. A flight simulator and flight training device cannot be used more than 12.5 hours to meet the training requirements, and use of the flight training device is limited to 6.25 of the 12.5 hours.

(k) Course for an airplane additional multiengine class rating.

(1) For the private pilot certificate, the course requires 3 hours of flight training on the areas of operations of appendix B to part 141, paragraph 4(d)(2). A flight simulator and flight training device cannot be used more than 0.6 hours to meet the training requirements, and use of the flight training device is limited to 0.4 of the 0.6 hours. The course must include—

(i) 3 hours of cross-country training in a multiengine airplane, except as provided under § 61.111 of this chapter;

(ii) 3 hours of night-time flight training in a multiengine airplane that includes one cross-country flight of more than 100 nautical miles total distance in a multiengine airplane, and 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport;

(iii) 3 hours of flight training in a multiengine airplane on the control and maneuvering of a multiengine airplane solely by reference to instruments, including straight and level flight, constant airspeed climbs and descents, turns to a heading, recovery from unusual flight attitudes, radio communications, and the use of navigation systems/facilities and radar services appropriate to instrument flight; and

(iv) 3 hours of flight training in a multiengine airplane within 2 calendar months before the date of the practical test.

(2) For the commercial pilot certificate, the course requires 10 hours of training on the areas of operations under appendix D of part 141, paragraph 4(d)(2). A flight simulator and flight training device cannot be used more than 3 hours to meet the training requirements, and use of the flight training device is limited to 2 of the 3 hours. The course must include—

(i) 5 hours of instrument training in a multiengine airplane that must include training using a view limiting device on for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems;

(ii) 10 hours of training in a multiengine airplane that has retractable landing gear, flaps, and a controllable pitch propeller, or is turbine-powered;

(iii) One 2-hour cross-country flight during day-time conditions in a multiengine airplane and, a total straight-line distance of more than 100 nautical miles from the original point of departure;

(iv) One 2-hour cross-country flight during night-time conditions in a multiengine airplane and, a total straight-line distance of more than 100 nautical miles from the original point of departure; and

(iv) 3 hours of flight training in a multiengine airplane within 2 calendar months before the date of the practical test.

(3) For the airline transport pilot certificate, the course requires 25 hours of training in a multiengine airplane on the areas of operation of appendix E to part 141, paragraph 4.(c) that includes 15 hours of instrument training. A flight simulator and flight training device cannot be used more than 12.5 hours to meet the training requirements, and use of the flight training device is limited to 6.25 of the 12.5 hours.

(l) Course for a rotorcraft additional helicopter class rating.

(1) For the recreational pilot certificate, the course requires 3 hours of flight training on the areas of operations under appendix A of part 141, paragraph 4.(c)(2) that includes—

(i) 2 hours of flight training to and at an airport that is located more than 25 nautical miles from the airport where the applicant normally trains, with three takeoffs and three landings, except as provided under § 61.100 of this chapter; and

(ii) 3 hours of flight training in a helicopter within 2 calendar months before the date of the practical test.

(2) For the private pilot certificate, the course requires 3 hours flight training on the areas of operations under appendix B of part 141, paragraph 4.(d)(3). A flight simulator and flight training device cannot be used more than 0.6 hours to meet the training requirements, and use of the flight training device is limited to 0.4 of the 0.6 hours. The course must include—

(i) 3 hours of cross-country training in a helicopter, except as provided under § 61.111 of this chapter;

(ii) 3 hours of night-time flight training in a helicopter that includes one cross-country flight of more than 50-nautical-miles total distance, and 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport; and

(iii) 3 hours of flight training in a helicopter within 2 calendar months before the date of the practical test.

(3) For the commercial pilot certificate, the course requires 5 hours flight training on the areas of operations under appendix D of part 141, paragraph 4.(d)(3). Use of a flight simulator and flight training device in the approved training course cannot exceed 1 hour; however, use of the flight training device cannot exceed 0.7 of the one hour. The course must include—

(i) 5 hours on the control and maneuvering of a helicopter solely by reference to instruments, and must include training using a view limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems. This aeronautical experience may be performed in an aircraft, flight simulator, flight training device, or a personal computer aviation training device;

(ii) One 2-hour cross-country flight during day-time conditions in a helicopter and, a total straight-line distance of more than 50 nautical miles from the original point of departure;

(iii) One 2-hour cross-country flight during night-time conditions in a helicopter and a total straight-line distance of more than 50 nautical miles from the original point of departure; and

(iv) 3 hours of flight training in a helicopter within 2 calendar months before the date of the practical test.

(4) For the airline transport pilot certificate, the course requires 25 hours of flight training in a helicopter on the areas of operation under appendix E of part 141, paragraph 4.(c) that includes 15 hours of instrument training. A flight simulator and flight training device cannot be used more than 12.5 hours to meet the training requirements, and use of the flight training device is limited to 6.25 of the 12.5 hours.

(m) Course for a rotorcraft additional gyroplane class rating.

(1) For the recreational pilot certificate, the course requires 3 hours flight training on the areas of operations of appendix A to part 141, paragraph 4.(c)(3) that includes—

(i) Except as provided under § 61.100 of this chapter, 2 hours of flight training to and at an airport that is located more than 25 nautical miles from the airport where the applicant normally trains, with three takeoffs and three landings; and

(ii) Within 2 calendar months before the date of the practical test, 3 hours of flight training in a gyroplane.

(2) For the private pilot certificate, the course requires 3 hours flight training on the areas of operations of appendix B to part 141, paragraph 4.(d)(4). A flight simulator and flight training device cannot be used more than 0.6 hours to meet the training requirements, and use of the flight training device is limited to 0.4 of the 0.6 hours. The course must include—

(i) 3 hours of cross-country training in a gyroplane;

(ii) 3 hours of night-time flight training in a gyroplane that includes one cross-country flight of more than 50-nautical-miles total distance, and 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport; and

(iii) 3 hours of flight training in a gyroplane within 2 calendar months before the date of the practical test.

(3) For the commercial pilot certificate, the course requires 5 hours flight training on the areas of operations of appendix D to part 141, paragraph 4.(d)(4). A flight simulator and flight training device cannot be used more than 1 hour to meet the training requirements, and use of the flight training device is limited to 0.7 of the 1 hour. The course must include—

(i) 2.5 hours on the control and maneuvering of a gyroplane solely by reference to instruments, and must include training using a view limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems. This aeronautical experience may be performed in an aircraft, flight simulator, flight training device, or a personal computer aviation training device.

(ii) 3 hours of cross-country flight training in a gyroplane, except as provided under § 61.111 of this chapter;

(iii) 2 hours of flight training during night-time conditions in a gyroplane at an airport that includes 10 takeoffs and 10 landings to a full stop (with each landing involving a flight in the traffic pattern); and

(iv) 3 hours of flight training in a gyroplane within 2 calendar months before the date of the practical test.

(n) Course for a lighter-than-air additional airship class rating.

(1) For the private pilot certificate, the course requires 20 hours of flight training on the areas of operation under appendix B of part 141, paragraph 4.(d)(7). A flight simulator and flight training device cannot be used more than 4 hours to meet the training requirements, and use of the flight training device is limited to 3 of the 4 hours. The course must include—

(i) 3 hours of cross-country training in an airship, except as provided under § 61.111 of this chapter;

(ii) 3 hours of night-time flight training in an airship that includes one cross-country flight of more than 25-nautical-miles total distance, and five takeoffs and five landings to a full stop (with each landing involving a flight in the traffic pattern) at an airport;

(iii) 3 hours of flight training in an airship on the control and maneuvering of an airship solely by reference to instruments, including straight and level flight, constant airspeed climbs and descents, turns to a heading, recovery from unusual flight attitudes, radio communications, and the use of navigation systems/facilities and radar services appropriate to instrument flight; and

(iv) 3 hours of flight training in an airship within 2 calendar months before the date of the practical test.

(2) For the commercial pilot certificate, the course requires 55 hours of flight training on the areas of operation under appendix D of part 141, paragraph 4.(d)(7). A flight simulator and flight training device cannot be used more than 16.5 hours to meet the training requirements, and use of the flight training device is limited to 11 of the 16.5 hours. The course must include—

(i) 3 hours of instrument training in an airship that must include training using a view limiting device for attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems;

(ii) One 1-hour cross-country flight during day-time conditions in an airship that consists of a total straight-line distance of more than 25 nautical miles from the original point of departure;

(iii) One 1-hour cross-country flight during night-time conditions in an airship that consists of a total straight-line distance of more than 25 nautical miles from the original point of departure; and

(iv) 3 hours of flight training in an airship within 2 calendar months before the date of the practical test.

(o) Course for a lighter-than-air additional gas balloon class rating.

(1) For the private pilot certificate, the course requires eight hours of flight training that includes five training flights on the areas of operations under appendix B of part 141, paragraph 4.(d)(8). A flight simulator and flight training device cannot be used more than 1.6 hours to meet the training requirements, and use of the flight training device is limited to 1.2 of the 1.6 hours. The course must include—

(i) Two flights of 1 hour each;

(ii) One flight involving a controlled ascent to 3,000 feet above the launch site; and

(iii) Two flights within 2 calendar months before the date of the practical test.

(2) For the commercial pilot certificate, the course requires 10 hours of flight training that includes eight training flights on the areas of operations of appendix D to part 141, paragraph 4.(d)(8). A flight simulator and flight training device cannot be used more than 3 hours to meet the training requirements, and use of the flight training device is limited to 2 of the 3 hours. The course must include—

(i) Two flights of 1 hour each;

(ii) One flight involving a controlled ascent to 5,000 feet above the launch site; and

(iii) Two flights within 2 calendar months before the date of the practical test.

(p) Course for a lighter-than-air additional hot air balloon class rating.

(1) For the private pilot certificate, the course requires 8 hours of flight training that includes five training flights on the areas of operations of appendix B to part 141, paragraph 4.(d)(8). A flight simulator and flight training device cannot be used more than 1.6 hours to meet the training requirements, and use of the flight training device is limited to 1.2 of the 1.6 hours. The course must include—

(i) Two flights of 30 minutes each;

(ii) One flight involving a controlled ascent to 2,000 feet above the launch site; and

(iii) Two flights within 2 calendar months before the date of the practical test.

(2) For the commercial pilot certificate, the course requires 10 hours of flight training that includes eight training flight on the areas of operation of appendix D to part 141, paragraph 4.(d)(8). A flight simulator and flight training device cannot be used more than 3 hours to meet the training requirements, and use of the flight training device is limited to 2 of the 3 hours. The course must include—

(i) Two flights of 30 minutes each.

(ii) One flight involving a controlled ascent to 3,000 feet above the launch site; and

(iii) Two flights within 2 calendar months before the date of the practical test.

* * * * *

Issued in Washington, DC on December 27, 2006.

James Ballough,

Director, Flight Standards Service.

[FR Doc. E7–1467 Filed 2–6–07; 8:45 am]

BILLING CODE 4910–13–P

Federal Register

Wednesday,
February 7, 2007

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Flatwoods Salamander; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU85

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Flatwoods Salamander

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to designate critical habitat for the flatwoods salamander (*Ambystoma cingulatum*) pursuant to the Endangered Species Act of 1973, as amended (Act). In total, approximately 31,428 acres (ac) (12,719 hectares (ha)) fall within the boundaries of the proposed critical habitat designation. The proposed critical habitat is located in Baker, Calhoun, Franklin, Holmes, Jackson, Jefferson, Liberty, Santa Rosa, Wakulla, Walton, and Washington Counties in Florida; Baker and Miller Counties in Georgia; and Berkeley, Charleston, and Jasper Counties in South Carolina.

DATES: We will accept comments from all interested parties until April 9, 2007. We must receive requests for public hearings, in writing, at the address shown in the **ADDRESSES** section by March 26, 2007.

ADDRESSES: If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods:

1. You may send by U.S. mail or hand-deliver written comments and information to Ray Aycock, Field Supervisor, U.S. Fish and Wildlife Service, Mississippi Fish and Wildlife Office, 6578 Dogwood View Pkwy, Jackson, MS 39213.

2. You may send comments by electronic mail (e-mail) to *linda_laclaire@fws.gov.* Please see the Public Comments Solicited section below for file format and other information about electronic filing.

3. You may fax your comments to 601/965–4340.

4. You may go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.

Comments and materials received, as well as supporting documentation used in the preparation of this proposed rule, will be available for public inspection, by appointment, during normal business hours at the Mississippi Fish and Wildlife Office (address above).

FOR FURTHER INFORMATION CONTACT: Ray Aycock, Field Supervisor, Mississippi Fish and Wildlife Office (address above) (*telephone:* 601/965–4900; *facsimile:* 601/965–4340). Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339, 7 days a week and 24 hours a day.

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) The reasons any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether the benefit of designation will outweigh any threats to the species caused by designation;

(2) Specific information on the amount and distribution of flatwoods salamander habitat, what areas should be included in the designations that were occupied at the time of listing that contain the features that are essential for the conservation of the species and why and what areas that were not occupied at the time of listing but are essential to the conservation of the species and why;

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed critical habitat;

(4) Any foreseeable economic, national security, or other potential impacts resulting from the proposed designation and, in particular, any impacts on small entities;

(5) The adequacy of forest management plans and programs for Francis Marion, Osceola, and Apalachicola National Forests with respect to providing protection and conservation for the flatwoods salamander; and

(6) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments.

If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES** section). Please submit Internet comments to *linda_laclaire@fws.gov.* Please include ''Attn: flatwoods salamander'' in your e-mail subject header and your name and return address in the body of your message. If you do not receive a confirmation from the system that we have received your Internet message, contact us directly by calling our Mississippi Fish and Wildlife Office at phone number 601/965–4900.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their names and home addresses, etc., but if you wish us to consider withholding this information, you must state this prominently at the beginning of your comments. In addition, you must present rationale for withholding this information. This rationale must demonstrate that disclosure would constitute a clearly unwarranted invasion of privacy. Unsupported assertions will not meet this burden. In the absence of exceptional, documentable circumstances, this information will be released. We will always make submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Role of Critical Habitat in Actual Practice of Administering and Implementing the Act

Attention to and protection of habitat is paramount to successful conservation actions. The role that designation of critical habitat plays in protecting habitat of listed species, however, is often misunderstood. As discussed in more detail below in the discussion of exclusions under the Act's section 4(b)(2), there are significant limitations on the regulatory effect of designation under Act's section 7(a)(2). In brief, (1) designation provides additional protection to habitat only where there is a federal nexus; (2) the protection is relevant only when, in the absence of designation, destruction or adverse modification of the critical habitat would in fact take place (in other words, other statutory or regulatory protections, policies, or other factors relevant to agency decision-making would not prevent the destruction or adverse modification); and (3) designation of critical habitat triggers the prohibition of destruction or adverse modification of that habitat, but it does not require specific actions to restore or improve habitat.

Currently, only 476 species, or 36 percent of the 1,311 listed species in the United States under the jurisdiction of the Service, have designated critical habitat. We address the habitat needs of all 1,311 listed species through conservation mechanisms such as listing, section 7 consultations, the section 4 recovery planning process, the section 9 protective prohibitions of unauthorized take, section 6 funding to the States, the section 10 incidental take permit process, and cooperative, nonregulatory efforts with private landowners. The Service believes that it is these measures may make the difference between extinction and survival for many species.

In considering exclusions of areas proposed for designation, we evaluated the benefits of designation in light of *Gifford Pinchot Task Force* v. *United States Fish and Wildlife Service*, 378 F. 3d 1059 (9th Cir 2004) (hereinafter *Gifford Pinchot*). In that case, the Ninth Circuit invalidated the Service's regulation defining ''destruction or adverse modification of critical habitat.'' In response, on December 9, 2004, the Director issued guidance to be considered in making section 7 adverse modification determinations. This proposed critical habitat designation does not use the invalidated regulation in our consideration of the benefits of including areas. The Service will carefully manage future consultations that analyze impacts to designated critical habitat, particularly those that appear to be resulting in an adverse modification determination. Such consultations will be reviewed by the Regional Office prior to finalizing to ensure that an adequate analysis has been conducted that is informed by the Director's guidance.

On the other hand, to the extent that designation of critical habitat provides protection, that protection can come at significant social and economic cost. In addition, the mere administrative process of designation of critical habitat is expensive, time-consuming, and controversial. The current statutory framework of critical habitat, combined with past judicial interpretations of the statute, make critical habitat the subject of excessive litigation. As a result, critical habitat designations are driven by litigation and courts rather than biology, and made at a time and under a time frame that limits our ability to obtain and evaluate the scientific and other information required to make the designation most meaningful.

In light of these circumstances, the Service believes that additional agency discretion would allow our focus to return to those actions that provide the greatest benefit to the species most in need of protection.

Procedural and Resource Difficulties in Designating Critical Habitat

We have been inundated with lawsuits for our failure to designate critical habitat, and we face a growing number of lawsuits challenging critical habitat determinations once they are made. These lawsuits have subjected the Service to an ever-increasing series of court orders and court-approved settlement agreements, compliance with which now consumes nearly the entire listing program budget. This leaves the Service with little ability to prioritize its activities to direct scarce listing resources to the listing program actions with the most biologically urgent species conservation needs.

The consequence of the critical habitat litigation activity is that limited listing funds are used to defend active lawsuits, to respond to Notices of Intent (NOIs) to sue relative to critical habitat, and to comply with the growing number of adverse court orders. As a result, listing petition responses, the Service's own proposals to list critically imperiled species, and final listing determinations on existing proposals are all significantly delayed.

The accelerated schedules of court-ordered designations have left the Service with limited ability to provide for public participation or to ensure a defect-free rulemaking process before making decisions on listing and critical habitat proposals, due to the risks associated with noncompliance with judicially imposed deadlines. This in turn fosters a second round of litigation in which those who fear adverse impacts from critical habitat designations challenge those designations. The cycle of litigation appears endless, and is very expensive, thus diverting resources from conservation actions that may provide relatively more benefit to imperiled species.

The costs resulting from the designation include legal costs, the cost of preparation and publication of the designation, the analysis of the economic effects and the cost of requesting and responding to public comment, and in some cases the costs of compliance with the National Environmental Policy Act (NEPA; 42 U.S.C. 4371 *et seq.*). These costs, which are not required for many other conservation actions, directly reduce the funds available for direct and tangible conservation actions.

Background

It is our intent to discuss only those topics directly relevant to the designation of critical habitat in this proposed rule. For more information on the flatwoods salamander, refer to the final listing rule published in the **Federal Register** on April 1, 1999 (64 FR 15691).

Previous Federal Actions

The flatwoods salamander (*Ambystoma cingulatum*) was listed as threatened on April 1, 1999 (64 FR 15691). At that time, we found that designation of critical habitat for the flatwoods salamander was not prudent because such designation would not be beneficial and may increase threats to the species. On April 1, 2005, Center for Biological Diversity, Wild South, and Florida Biodiversity Project filed a lawsuit against the Secretary of the Interior alleging failure to designate critical habitat for the flatwoods salamander. In a court-approved settlement agreement, we agreed to reevaluate the need for critical habitat for the species and if prudent submit a proposed designation of critical habitat to the **Federal Register** by January 30, 2007.

Critical Habitat

Critical habitat is defined in section 3 of the Act as—(i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. Conservation, as defined under section 3 of the Act, means to use and the use of all methods and procedures that are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to the Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, census, law enforcement, habitat acquisition and maintenance, propagation, live trapping, and transplantation, and, in the extraordinary case where population pressures within a given ecosystem cannot be otherwise relieved, may include regulated taking.

Critical habitat receives protection under section 7 of the Act through the prohibition against destruction or adverse modification of critical habitat with regard to actions carried out, funded, or authorized by a Federal agency. Section 7 requires consultation on Federal actions that are likely to result in the destruction or adverse modification of critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow government or public access to private lands. Section 7 is a purely protective measure and does not require implementation of restoration, recovery, or enhancement measures.

To be included in a critical habitat designation, the habitat within the area occupied by the species must first have features that are essential to the conservation of the species. Critical habitat designations identify, to the extent known using the best scientific data available, habitat areas that provide essential life cycle needs of the species (i.e., areas on which are found the primary constituent elements, as defined at 50 CFR 424.12(b)).

Habitat occupied at the time of listing may be included in critical habitat only if the essential features thereon may require special management or protection. Thus, we do not include areas where existing management is sufficient to conserve the species. (As discussed below, such areas may also be excluded from critical habitat pursuant to section 4(b)(2)). Accordingly, when the best available scientific data do not demonstrate that the conservation needs of the species require additional areas, we will not designate critical habitat in areas outside the geographical area occupied by the species at the time of listing. An area currently occupied by the species but not known to have been occupied at the time of listing will likely, but not always, be essential to the conservation of the species and, therefore, typically included in the critical habitat designation.

The Service's Policy on Information Standards Under the Endangered Species Act, published in the **Federal Register** on July 1, 1994 (59 FR 34271), and Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service provide criteria, establish procedures, and provide guidance to ensure that decisions made by the Service represent the best scientific data available. They require Service biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat. When determining which areas are critical habitat, a primary source of information is generally the listing package for the species. Additional information sources include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and counties, scientific status surveys and studies, biological assessments, or other unpublished materials and expert opinion or personal knowledge. All information is used in accordance with the provisions of Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658) and the associated Information Quality Guidelines issued by the Service.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific data available. Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that designation of critical habitat may not include all of the habitat areas that may eventually be determined to be necessary for the recovery of the species. For these reasons, critical habitat designations do not signal that habitat outside the designation is unimportant or may not be required for recovery.

Areas that support populations, but are outside the critical habitat designation, will continue to be subject to conservation actions implemented under section 7(a)(1) of the Act and to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as determined on the basis of the best available information at the time of the action. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans, or other species conservation planning efforts if new information available to these planning efforts calls for a different outcome.

Methods

As required by section 4(b)(2) of the Act, we use the best scientific data available in determining areas that contain the features that are essential to the conservation of the flatwoods salamander. This includes information from the proposed listing rule (62 FR 65787), final listing rule (64 FR 15691), site visits, soil and species map coverages, and data compiled in the Florida, Georgia, and South Carolina Natural Heritage databases. We do not propose any areas outside the geographical area presently occupied by the species.

We also reviewed the available information pertaining to historical and current distribution, ecology, life history, and habitat requirements of the flatwoods salamander. This material included data in reports submitted by biologists holding section 10(a)(1)(A) recovery permits; research published in peer-reviewed scientific publications; museum records; technical reports and unpublished field observations by Service, State and other experienced biologists; additional notes and communications with qualified biologists or experts; and regional Geographic Information System (GIS) coverages.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas to propose as critical habitat, we consider those physical and biological features that are essential to the conservation of the species (PCEs), and within areas occupied by the species at the time of listing, those PCES that may require special management considerations and protection. These include, but are not limited to, space for individual and population growth and for normal behavior; food, water, air, light, minerals, or other nutritional or physiological requirements; cover or shelter; sites for breeding, reproduction, and rearing (or development) of offspring; and habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of a species.

The specific PCEs required for the flatwoods salamander are derived from the biological needs of the flatwoods salamander as described below and in the final listing rule (64 FR 15691).

Space for Individual and Population Growth and Normal Behavior

The flatwoods salamander is a terrestrial species of the longleaf pine ecosystem. Flatwoods salamanders spend most of their lives underground, and occur in forested habitat consisting of fire-maintained, open-canopied, flatwoods and savannas dominated by longleaf pine (*Pinus palustris*), with naturally-occurring slash pine (*P.*

elliotti) in wetter areas. Historically, fire-tolerant longleaf pine dominated the uplands, whereas slash pine, being less fire-tolerant, was confined principally to wetlands, wetland edges, and the wetter portions of pine flatwoods. Means et al. (1996, pp. 434–435) summarized the natural distribution of slash pine in reference to the flatwoods salamander and concluded that natural slash pine habitats constituted only a minor fraction of the species' upland habitat. Much of the original flatwoods habitat has been converted to pine (often slash pine) plantations and become a closed-canopy forest unsuitable as habitat for the flatwoods salamander. Nevertheless, flatwoods salamanders do occur on some slash and loblolly pine (*P. taeda*) plantation sites. The extent of habitat degradation has been variable among pine plantations. On some plantations, the original hydrology, ground cover, and soil structure have been less severely altered, and these are the areas where remnant flatwoods salamander populations still occur.

Pine flatwoods and savannas are typically characterized by low, flat topography, and relatively poorly-drained, acidic, sandy soil that becomes seasonally saturated. In the past, this ecosystem was characterized by open pine woodlands maintained by frequent fires. Naturally ignited by lightning during spring and early summer, these flatwoods historically burned at intervals ranging from 1 to 4 years (discussion in Clewell 1989, p. 226). In some areas, such as southwest Georgia, the topography of pine flatwoods can vary from nearly flat to gently-rolling hills. The groundcover of the pine flatwoods/savanna ecosystem is typically dominated by wiregrass (*Aristida stricta* [= *A. beyrichiana*] Kesler et al. 2003, p. 9) in the Gulf Coastal Plain, which is often joined or replaced by dropseed (*Sporobolus* spp.) in the Atlantic Coastal Plain. Many other herbaceous plants are found in the groundcover and plant diversity is usually very high.

During the breeding season, adult flatwoods salamanders leave their subterranean retreats and migrate to breeding sites during rains associated with passing cold fronts. Throughout their range, the salamanders breed at ephemeral (seasonally-flooded) isolated ponds (not connected to other water bodies) embedded within the mesic (moderate moisture) to intermediate-mesic flatwoods/savanna communities occupied by post-larval and adult salamanders (Palis and Means 2005, pp. 608–609. There are some variations in vegetation, geology, and soils among geographic areas within the range of the salamander (most notably, differences between the Gulf Coast and Atlantic Coastal Plain communities); however, basic characteristics are fairly similar throughout. Both forested uplands and isolated wetlands (See further discussion of isolated wetlands in section ''Sites for breeding, reproduction, and rearing of offspring,'' below) are needed to provide space for individual and population growth and normal behavior.

The distance between the wetland breeding and upland terrestrial habitats of post-larval and adult salamanders can vary considerably. According to Ashton (1992), flatwoods salamanders have been documented up to 5,576 ft (1,700 m) from breeding ponds. In the final listing rule, however, the Service used an estimate of 1,476 feet (ft) (450 meters (m)) as the radius of a flatwoods salamander's principal activity area around a breeding pond based on research summarized in Semlitsch (1998, pp. 1115–1117) on this species and other species in its genus (U. S. Fish and Wildlife Service 1999, p. 15697).

Food, Water, Air, Light, or Other Nutritional or Physiological Requirements

It is assumed that flatwoods salamanders eat small invertebrates that share their fossorial (underground) habitat. Records exist of earthworms that have been found in the stomachs of dissected adults (Goin 1950, p. 314). Larval flatwoods salmanders most likely prey on a variety of aquatic invertebrates and perhaps small vertebrates such as other amphibian larvae (Palis and Means 2005, p. 608). Data from a recent study of larval food habits found that freshwater crustaceans dominated stomach contents of preserved, wild-caught individuals from Florida and South Carolina (Whiles et al. 2004, p. 208). This likely indicates a preference for freshwater crustaceans, or perhaps is an indication that these invertebrates are the most abundant or most easily captured prey in breeding ponds.

Within the pine uplands, a diverse and abundant herbaceous layer consisting of native species is important to maintain the prey base for adult flatwoods salamanders. Wetland water quality is important to maintain the aquatic invertebrate fauna eaten by larval salamanders. An unpolluted wetland with water free of sediment, pesticides, herbicides, and the chemicals associated with road runoff, is important to maintain the aquatic invertebrate fauna eaten by larval salamanders.

Cover or Shelter

At wetland sites, developing larval flatwoods salamanders hide in submerged herbaceous vegetation during the day (Palis and Means 2005, p. 608) as protection from predators. Thus, an abundant herbaceous community in these ponds is important for cover.

Generally, flatwoods salamander breeding pond and upland habitats are separated by an ecotone (area of transitional habitat) through which salamanders must move during pre- and post-breeding events (Palis 1997, p. 58). The graminaceous (grass-like) ecotone represents a distinct habitat type and studies of migratory success in salamanders have demonstrated its importance to population survival (Rothermel 2004, pp. 1544–1545).

Post-larval and adult flatwoods salamanders occupy upland flatwoods sites where they live underground in crayfish burrows, root channels, or burrows of their own making (Goin 1950, p. 311; Neill 1951, p. 765; Mount 1975, pp. 98–99; Ashton and Ashton 2005, pp. 63, 65, 68–71). The occurrence of these below-ground habitats is dependent upon protection of the soil structure within flatwoods salamander terrestrial sites.

Sites for Breeding, Reproduction, and Rearing of Offspring

Adult flatwoods salamanders move from the uplands to breed in ponds that are typically acidic, tannin-stained, isolated, ephemeral wetlands (marsh-like depressions) (Palis 1997, p. 53, 58; Safer 2001, p. 5, 12). Breeding occurs from late September to December when ponds flood due to rainy weather associated with cold fronts. If rainfall is insufficient to result in adequate pond flooding, breeding may not occur or, if larvae do develop, they may die before metamorphosis. Egg development from deposition to hatching occurs in approximately 2 weeks, but eggs do not hatch until they are inundated (Palis 1995, p. 352, 353). Larval salamanders usually metamorphose in March or April after an 11-to-18-week larval period (Palis 1995, p. 352). Ponds dry shortly thereafter. A cycle of filling and drying is essential for maintaining the appropriate habitat conditions of these wetlands.

The overstory within breeding ponds is typically dominated by pond cypress (*Taxodium ascendens* [=*T. distichum* var. *imbricarium;* Lickey and Walker 2002, p. 131)], blackgum (*Nyssa sylvatica* var. *biflora*), and slash pine (Palis 1997, p. 58, 59). An open midstory is often present as well and

dominant species include the myrtle-leaved holly (*Illex myrtifolia*) and other shrubs and small trees (Palis 1997, p. 58, 59). When they are dry, breeding ponds burn naturally due to periodic wildfires, especially during late spring and summer. Depending on canopy closure and midstory, the herbaceous groundcover of breeding sites can vary considerably (Palis 1997, p. 58, 59). However, flatwoods salamander larvae are typically found in those portions of breeding sites containing abundant herbaceous vegetation. The ground cover is dominated by graminaceous species. The floor of breeding sites generally consists of relatively firm mud with little or no peat. Burrows of crayfish (genus *Procambarus,* principally) are a common feature of flatwoods salamander breeding sites. Breeding sites are typically encircled by a bunchgrass (wiregrass or dropseed)—dominated graminaceous ecotone (see discussion of ecotone, above). Small fish, such as pygmy sunfishes (*Elassoma* spp.), mosquitofish (*Gambusia holbrookii*), and banded sunfish (*Enneacanthus obesus*) may be present, but large predaceous species are absent (Palis 1997, p. 58, 60).

Primary Constituent Elements for the Flatwoods Salamander

Pursuant to our regulations, we are required to identify the known physical and biological features essential to the conservation of the flatwoods salamander (PCEs). Based on our current knowledge of the life history, biology, and ecology of the species and the requirements of the habitat to sustain the essential life history functions of the species, we have determined that the flatwoods salamander's PCEs are:

1. *Breeding habitat.* Small (generally <1 to 10 acres (ac) (<0.4 to 4.0 hectares (ha)), acidic, depressional standing bodies of freshwater (wetlands) that:

(a) are seasonally flooded by rainfall in late fall or early winter and dry in late spring or early summer;

(b) are geographically isolated from other water bodies;

(c) occur within pine-flatwoods/savanna communities;

(d) are dominated by grasses and grass-like species in the ground layer and overstories of pond cypress, blackgum, and slash pine.

(e) have a relatively open canopy, necessary to maintain the herbaceous component which serves as cover for flatwoods salamander larvae and their aquatic invertebrate prey; and

(f) typically have a burrowing crayfish fauna, but, due to periodic drying, the breeding ponds typically lack large, predatory fish (e.g., *Lepomis* (sunfish), *Micropterus* (bass), *Amia calva* (bowfin)).

2. *Non-breeding habitat.* Upland pine flatwoods/savanna habitat that is open, mesic woodland maintained by frequent fires and that:

(a) is within 1,500 ft (457 m) of adjacent and accessible breeding ponds;

(b) contains crayfish burrows or other underground habitat that the flatwoods salamander depends upon for food, shelter, and protection from the elements and predation;

(c) has an organic hardpan in the soil profile, which inhibits subsurface water penetration and typically results in moist soils with water often at or near the surface under normal conditions; and

(d) often has wiregrasses as the dominant grasses in the abundant herbaceous ground cover, which supports the rich herbivorous invertebrates that serve as a food source for the flatwoods salamander.

3. *Dispersal habitat.* Upland habitat areas between non-breeding and breeding habitat that allows for salamander movement between such sites and that is characterized by:

(a) a mix of vegetation types representing a transition between wetland and upland vegetation (ecotone);

(b) an open canopy and abundant native herbaceous species; and

(c) moist soils as described in PCE 2, and underground structure, such as deep litter cover or burrows that provide shelter for salamanders during seasonal movements.

This proposed designation is designed for the conservation of those areas containing PCEs necessary to support the life history functions that were the basis for the proposal. Each of the areas proposed as critical habitat in this rule have been determined to contain all PCEs of the flatwoods salamander.

Criteria Used To Identify Critical Habitat

As required by section 4(b)(1)(A) of the Act, we used the best scientific data available in determining areas that contain the features that are essential to the conservation of the flatwoods salamander. This includes information from the proposed listing rule (62 FR 65787), final listing rule (64 FR 15691), site visits, soil and species map coverages, and data compiled in the Florida, Georgia, and South Carolina Natural Heritage databases. We propose to designate no areas outside the geographical area presently occupied by the species.

We have also reviewed available information that pertains to the habitat requirements of this species. This material included data in reports submitted by biologists holding section 10(a)(1)(A) permits; research published in peer-reviewed scientific publications; museum records, technical reports and unpublished field observations by Service, State, and other experienced biologists; management plans written by State biologists; State grant reports; additional notes and communications with qualified biologists or experts; and regional GIS coverages.

In proposing to designate critical habitat for the flatwoods salamander, we selected areas occupied at the time of listing based on the best scientific data available that possess those physical and biological features essential to the conservation of the species that may require special management considerations or protection. In addition, we included two areas subsequently identified as occupied and essential to the conservation of the species. We found that the two newer (post-listing) occurrence records were in close proximity to areas already known to support the flatwoods salamander. We identified proposed critical habitat units that were occupied at the time of listing based on: (1) Presence of the defined PCEs; (2) density of flatwoods salamander occurrences; and (3) kind, amount, and quality of habitat associated with those occurrences. We identified proposed critical habitat units that were not occupied at the time of listing based on: (1) Density of flatwoods salamander occurrences; (2) kind, amount, and quality of habitat associated with those occurrences; and (3) a determination that these areas are essential to the conservation of the species.

According to Ashton (1992), flatwoods salamanders have been documented up to 5,576 ft (1,700 m) from breeding ponds. However, in the final listing rule, we determined that a radius of 1,476 ft (450 m) from the wetland edge would protect the majority of the salamander population (U.S. Fish and Wildlife Service 1999, p. 15697). Thus, the radius of 450 m was used to delineate critical habitat boundaries around breeding ponds, and proposed critical habitat areas separated by over 450 m were considered separate units or subunits.

We considered the following criteria in the selection of areas that contain the essential features for the flatwoods salamander and focused on designating units: (1) Throughout the current geographic and ecological distribution of the species; (2) that retain or provide

for connectivity between breeding sites that allows for the continued existence of viable and essential metapopulations (populations at individual ponds that interbreed over time), despite fluctuations in the status of subpopulations; (3) that possess large continuous blocks of occupied habitat, representing source populations and/or unique ecological characteristics; and (4) that contain sufficient upland habitat around each breeding location to allow for sufficient survival and recruitment to maintain a breeding population over the long term. The lands proposed as critical habitat collectively contain small, and in some cases, isolated, populations of the species. These small populations are at a high risk of extinction due to stochastic events and human-induced threats such as urban/agricultural development and habitat degradation due to fire suppression and hydrological alterations. Thus, we believe all lands proposed as critical habitat are essential for the persistence and conservation of the flatwoods salamander and meet the criteria as set forth above.

We used the final listing rule to establish those areas occupied at the time of listing. All other areas proposed for critical habitat designation were based on occupancy data collected since listing. The currently occupied habitat of the flatwoods salamander is highly localized and fragmented. Due to several drought events, post-listing observations of salamanders have been made at breeding ponds in only a small portion of their occupied range and no population estimates are currently available. As with many rare species, especially pond-breeding amphibians with fossorial adult life stages, detection probabilities are low even in ''normal'' weather years (Bailey *et al.* 2004, p. 2463–2464). Flatwoods salamanders are particularly susceptible to drought, as breeding cannot occur if breeding ponds do not receive adequate rainfall. We know that isolated populations, including those of the flatwoods salamander, are highly susceptible to stochastic events. Thus, we have determined that all but one of the areas occupied at the time of listing contain the features essential to the conservation of the species and that the two units occupied since the time of listing are essential to the conservation of the species.

All occurrence records for sites currently known to be occupied, typically a breeding pond, were initially plotted on maps using ArcMap (Environmental Systems Research Institute, Inc.), a computer GIS program. The critical habitat units were then delineated by creating approximate areas for the units by screen-digitizing polygons (map units) using ArcMap. For ease of application in creating polygons, the original 1,476 ft (450 m) radius estimate used to generate the habitat occupied by a flatwoods salamander population was rounded up to 1,500 ft (457 m). Polygons were created by overlaying the flatwoods salamander occurrence locations, extant-at-time-of-listing and subsequent-to-listing, with radius buffers of 1,500 ft (457 m). The area circumscribed by a circle of this radius would be 162 ac (66 ha) and this area was used as a starting point to delineate the amount of wetland and upland habitat occupied by salamanders at each occurrence and containing the features essential to their conservation (PCEs).

Once the polygons were completed, they were overlaid on aerial photography. The aerial photography was analyzed to verify the occurrence of PCEs and their distribution within the polygons. Research on ambystomatid salamanders indicates that they need high terrestrial survival or immigration to persist (Taylor *et al.* 2005, p. 799). Thus, a flatwoods salamander population requires a sufficient amount of terrestrial habitat to ensure survival of adults in upland habitat, or immigration of juveniles to the population is needed from nearby breeding ponds. For this reason, if metapopulation structure was indicated by polygons which overlapped or were in immediate proximity to each other, polygons were combined to create areas containing multiple ponds connected to each other by upland habitat corridors. Additionally, we adjusted individual unit boundaries based on presence or absence of the PCEs.

When determining proposed critical habitat boundaries, we made every effort to avoid including developed areas such as buildings, paved areas, and other structures that lack PCEs for the flatwoods salamander. The scale of the maps prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed areas. However, any such structures and the land under them inadvertently left inside critical habitat boundaries shown on the maps of this proposed rule have been excluded by text in the proposed rule and are not proposed for designation as critical habitat. Therefore, Federal actions limited to these areas would not trigger section 7 consultation, unless they affect the species or primary constituent elements in adjacent critical habitat.

We are proposing to designate critical habitat on lands that we have determined were occupied at the time of listing and that contain sufficient PCEs to support life history functions essential for the conservation of the species. In addition we are proposing to designate two areas that were not known to be occupied at the time of listing (they occur within the same geographical area and were discovered after 1999), and have been determined to be essential to the conservation of the species. All lands proposed for designation contain all PCEs and support multiple flatwoods salamander life processes.

Section 10(a)(1)(B) of the Act authorizes us to issue permits for the take of listed species incidental to otherwise lawful activities. An incidental take permit application must be supported by a habitat conservation plan (HCP) that identifies conservation measures that the permittee agrees to implement to minimize and mitigate the impacts on the species by the requested incidental take. We often exclude non-Federal public lands and private lands that are covered by an existing operative HCP from designated critical habitat because the benefits of exclusion outweigh the benefits of inclusion as discussed in section 4(b)(2) of the Act. Currently, there are no existing or proposed HCPs for the flatwoods salamander, and as a result no exclusions are being proposed based on such an analysis.

Special Management Considerations or Protections

When designating critical habitat, we assess whether the areas determined to be occupied at the time of listing and contain the primary constituent elements that may require special management considerations or protections. Threats to those features that define the primary constituent elements for the flatwoods salamander include the direct and indirect impacts of land use conversions, primarily urban development and conversion to agriculture and pine plantations; stump removal and other soil-disturbing activities which destroy the below-ground structure within forest soils; fire suppression and low fire frequencies; wetland destruction and degradation; and stochastic effects of drought or floods. Specific details regarding these threats can be found in the proposed listing rule (62 FR 65787) and final listing rule (64 FR 15691). Due to one or more of the threats described above, and as discussed in more detail in the individual unit descriptions below, we find that all areas known to be occupied

at the time of listing that we are proposing for designation as critical habitat contain PCEs that may require special management considerations or protections to ensure the conservation of the flatwoods salamander.

Proposed Critical Habitat Designation

We are proposing 16 flatwoods salamander critical habitat units, some of which are divided into subunits (for a total 45 units/subunits). The critical habitat units described below constitute our best current assessment of areas determined to be occupied at the time of listing containing the primary constituent elements that may require special management, and those additional areas that were not known to be occupied at the time of listing but were found to be essential to the conservation of the flatwoods salamander.

TABLE 1.—PROPOSED CRITICAL HABITAT UNITS OCCUPIED AT THE TIME OF LISTING, CURRENTLY OCCUPIED BUT WERE NOT KNOWN TO BE OCCUPIED AT THE TIME OF LISTING, OR UNOCCUPIED

Unit	Occupied at time of listing	Currently occupied (but not known to be occupied at the time of listing)	Unoccupied
Florida Units			
FL–1, Subunit A	X		
FL–1, Subunit B	X		
FL–2, Subunit A	X		
FL–2, Subunit B	X		
FL–3, Subunit A	X		
FL–3, Subunit B	X		
FL–3, Subunit C	X		
FL–4	X		
FL–5, Subunit A	X		
FL–5, Subunit B	X		
FL–6, Subunit A	X		
FL–6, Subunit B	X		
FL–6, Subunit B	X		
FL–7, Subunit A	X		
FL–7, Subunit B	X		
FL–7, Subunit C	X		
FL–8, Subunit A	X		
FL–8, Subunit B	X		
FL–8, Subunit C	X		
FL–9, Subunit A	X		
FL–9, Subunit B	X		
FL–9, Subunit C	X		
FL–9, Subunit D	X		
FL–9, Subunit E	X		
FL–9, Subunit F	X		
FL–9, Subunit G	X		
FL–9, Subunit H	X		
FL–9, Subunit I		X	
FL–9, Subunit J		X	
FL–9, Subunit K	X		
FL–10	X		
FL–11, Subunit A	X		
FL–11, Subunit B	X		
FL–11, Subunit C	X		
FL–11, Subunit D	X		
FL–11, Subunit E	X		
FL–12, Subunit A	X		
FL–12, Subunit B	X		
Georgia Units			
GA–1, Subunit A	X		
GA–1, Subunit B	X		
GA–1, Subunit C	X		
South Carolina Units			
SC–1	X		
SC–2	X		
SC–3	X		
SC–4	X		

The total area with features essential to the conservation of the flatwoods salamander and other areas essential for the species' conservation is 43,202 ac (17, 484 ha). Of this, 31,428 ac (12,719 ha) are being proposed for critical habitat. The total area not proposed for critical habitat is 11,774 ac (4,765 ha). This includes 9,867 ac (3,993 ha) of Department of Defense (DoD) lands with INRMPs exempted under section 4(a)(3), and approximately 1,907 ac of land within St. Marks National Wildlife Refuge which do not meet the definition of critical habitat under section 3(5)(A). Table 2 below provides the approximate area (ac/ha) determined to meet the definition of critical habitat for the flatwoods salamander and area (ac/ha) being exempted from or not included in the final critical habitat designation, by State.

TABLE 2.—AREA (IN AC/HA) DETERMINED TO MEET THE DEFINITION OF CRITICAL HABITAT FOR THE FLATWOODS SALAMANDER CONTAINING THE PCES THAT MAY REQUIRE SPECIAL MANAGEMENT (DEFINITIONAL AREA) AND AREA BEING EXEMPTED FROM OR NOT INCLUDED IN THE FINAL CRITICAL HABITAT DESIGNATION (AREA NOT INCLUDED IN PROPOSED DESIGNATION), BY STATE

State	Definitional area (ac/ha)	Area not included in proposed designation (ac/ha)
Florida	29,689 ac (12,015 ha)	6,491 ac (2,627 ha).
Georgia	609 ac (247 ha)	5,283 ac (2,138 ha).
South Carolina	1,130 ac (457 ha)	
Totals	31,428 ac (12,719 ha)	11,774 ac (4,765 ha).

The approximate area (ac/ha) encompassed within each proposed critical habitat unit is shown in Table 3.

TABLE 3.—CRITICAL HABITAT UNITS PROPOSED FOR THE FLATWOODS SALAMANDER (AREA ESTIMATES REFLECT ALL LAND WITHIN CRITICAL HABITAT UNIT BOUNDARIES)

Unit	Federal ac (ha)	State ac (ha)	Local ac (ha)	Private ac (ha)	Total ac (ha)
Florida Units					
FL–1, Subunit A		180 ac (73 ha)	4 ac (2 ha)	6 ac (2 ha)	190 ac (77 ha).
FL–1, Subunit B		133 ac (54 ha)		29 ac (12 ha)	162 ac (66 ha).
FL–2, Subunit A				162 ac (66 ha)	162 ac (66 ha).
FL–2, Subunit B		32 ac (13 ha)		131 ac (53 ha)	163 ac (66 ha).
FL–3, Subunit A				148 ac (60 ha)	148 ac (60 ha).
FL–3, Subunit B			26 ac (11 ha)	42 ac (17 ha)	68 ac (28 ha).
FL–3, Subunit C			13 ac (5 ha)	165 ac (67 ha)	178 ac (72 ha).
FL–4		162 ac (66 ha)			162 ac (66 ha).
FL–5, Subunit A				213 ac (86 ha)	213 ac (86 ha).
FL–5, Subunit B		162 ac (66 ha)			162 ac (66 ha).
FL–6, Subunit A				162 ac (66 ha)	162 ac (66 ha).
FL–6, Subunit B		14 ac (6 ha)		148 ac (60 ha)	162 ac (66 ha).
FL–6, Subunit C				165 ac (67 ha)	165 ac (67 ha).
FL–7, Subunit A				157 ac (64 ha)	157 ac (64 ha).
FL–7, Subunit B				358 ac (145 ha)	358 ac (145 ha).
FL–7, Subunit C				244 ac (99 ha)	244 ac (99 ha).
FL–8, Subunit A				162 ac (66 ha)	162 ac (66 ha).
FL–8, Subunit B				162 ac (66 ha)	162 ac (66 ha).
FL–8, Subunit C				162 ac (66 ha)	162 ac (66 ha).
FL–9, Subunit A				162 ac (66 ha)	162 ac (66 ha).
FL–9, Subunit B	2,846 ac (1,152 ha)			511 ac (207 ha)	3,357 ac (1,359 ha).
FL–9, Subunit C	1,084 ac (439 ha)			32 ac (13 ha)	1,116 ac (452 ha).
FL–9, Subunit D	333 ac (135 ha)				333 ac (135 ha).
FL–9, Subunit E	1739 ac (704 ha)			51 ac (21 ha)	1,790 ac (725 ha).
FL–9, Subunit F	4,969 ac (2,011 ha)			231 ac (94 ha)	5,200 ac (2,105 ha).
FL–9, Subunit G	258 ac (104 ha)				258 ac (104 ha).
FL–9, Subunit H	8,176 ac (3,309 ha)			305 ac (123 ha)	8,481 ac (3,432 ha).
FL–9, Subunit I	1,209 ac (489 ha)	46 ac (19 ha)			1,255 ac (508 ha).
FL–9, Subunit J	312 ac (126 ha)				312 ac (126 ha).
FL–9, Subunit K	802 ac (325 ha)			7 ac (3 ha)	809 ac (328 ha).
FL–10		162 ac (66 ha)			162 ac (66 ha).
FL–11, Subunit A				919 ac (372 ha)	919 ac (372 ha).
FL–11, Subunit B				162 ac (66 ha)	162 ac (66 ha).
FL–11, Subunit C				435 ac (176 ha)	435 ac (176 ha).
FL–11, Subunit D				162 ac (66 ha)	162 ac (66 ha).
FL–11, Subunit E		85 ac (34 ha)		78 ac (32 ha)	163 ac (66 ha).
FL–12, Subunit A	1,109 ac (449 ha)				1,109 ac (449 ha).

TABLE 3.—CRITICAL HABITAT UNITS PROPOSED FOR THE FLATWOODS SALAMANDER (AREA ESTIMATES REFLECT ALL LAND WITHIN CRITICAL HABITAT UNIT BOUNDARIES)—Continued

Unit	Federal ac (ha)	State ac (ha)	Local ac (ha)	Private ac (ha)	Total ac (ha)
FL–12, Subunit B	.....	.....	.....	162 ac (66 ha)	162 ac (66 ha).
Georgia Units					
GA–1, Subunit A	.....	.....	.....	163 ac (66 ha)	163 ac (66 ha).
GA–1, Subunit A	.....	.....	.....	269 ac (109 ha)	269 ac (109 ha).
GA–1, Subunit C	.....	.....	.....	177 ac (72 ha)	177 ac (72 ha).
South Carolina Units					
SC–1	.....	.....	.....	163 ac (66 ha)	163 ac (66 ha).
SC–2	.....	.....	.....	183 ac (74 ha)	183 ac (74 ha).
SC–3	622 ac (252 ha)	.....	.....	.....	622 ac (252 ha).
SC–4	.....	162 ac (66 ha)	.....	.....	162 ac (66 ha).
Totals	23,459 ac (9,494 ha).	1,138 ac (461 ha) ...	43 ac (17 ha)	6,788 ac (2,747 ha)	31,428 ac (12,719 ha).

We present below brief descriptions of all units, and reasons why they meet the definition of critical habitat for the flatwoods salamander, including reasons why these PCEs require special management considerations or protections. Generally, the units are listed in order geographically west to east and south to north. The precise boundaries of each unit are described below as UTM coordinates (see Proposed Regulation Promulgation section).

Florida Critical Habitat Units (FL)

There are 12 Florida units, some of which are further subdivided into subunits (for a total of 38 units/subunits), comprising 29,689 ac (12,015 ha) across 11 counties of Florida. All units/subunits meet the definition of critical habitat based on the discussion above and all units contain all PCEs or for those units not occupied at listing, are essential to the conservation of the species. Of these, 36 units/subunits (28,122 ac (11,381 ha)) were known to be occupied at the time of listing and are currently occupied and two subunits (FL–9, Subunit I and FL–9, Subunit J), comprising 1,567 ac (634 ha), were not known to be occupied at the time of listing, but are currently occupied. The two subunits found to be occupied since listing are essential for the conservation of the species as they exist as part of a matrix of ponds within and adjacent to the Apalachicola National Forest, and their loss would negatively affect the long-term survival of this metapopulation, which is the largest existing metapopulation and is vital to the recovery of the species.

The western- and southern-most known occurrences of the flatwoods salamander are represented by populations in Florida.

Unit FL–1

Unit FL–1 is comprised of two subunits totaling 352 ac (143 ha) on Garcon Point in Santa Rosa County, Florida. Within FL–1, 180 acres (73 ha) consist of State land in the Garcon Point Water Management Area managed by the Northwest Florida Water Management District (NWFLWMD), 133 ac (54 ha) are on the Yellow River Marsh State Buffer Preserve (managed in part by the State of Florida/Department of Environmental Protection), 35 ac (14 ha) are in private ownership, and 4 ac (2 ha) are owned by the Santa Rosa Bay Bridge Authority.

Unit FL–1, Subunit A

Unit FL–1, Subunit A encompasses 190 ac (77 ha) on Garcon Point in Santa Rosa County, Florida. Garcon Point is a peninsula that extends into an embayment of the Gulf of Mexico near Pensacola, Florida. Within this unit, 180 acres (73 ha) consist of State land in the Garcon Point Water Management Area managed by the Northwest Florida Water Management District (NWFLWMD), 6 ac (2 ha) are in private ownership, and 4 ac (2 ha) are owned by the Santa Rosa Bay Bridge Authority. This currently occupied unit is located adjacent to Hwy. 191 within an extensive wet prairie. Since the majority of this currently occupied unit is owned by NWFLWMD, it is likely protected from direct agricultural and urban development; however, threats remain to the flatwoods salamander and its habitat that may require special management of the PCEs. They include the potential for fire suppression and potential hydrologic changes resulting from the adjacent highway that could alter the ecology of the breeding pond and surrounding terrestrial habitat. Ditches associated with highways can drain water from a site and result in ponds with shorter hydroperiods and drier terrestrial habitat. Alternatively, ditches can connect isolated wetlands with permanent water sites that increase the hydroperiod of ponds and facilitate the introduction of predaceous fish into breeding ponds. In addition, run-off from highways can introduce toxic chemicals into breeding sites.

Subunit B

Unit FL–1, Subunit B encompasses 162 ac (66 ha) in Santa Rosa County, Florida. Within this unit, 133 ac (54 ha) are on the Yellow River Marsh State Buffer Preserve (managed in part by the State of Florida/Department of Environmental Protection) and 29 ac (12 ha) are on private land. This currently occupied unit is also on Garcon Point, northeast of Subunit A. This area is bisected by Hwy. 191 which crosses an extensive wet prairie. Areas of this unit owned by the State of Florida are likely protected from direct agricultural and urban development; however, threats remain to the flatwoods salamander and its habitat that may require special management of the PCEs. They include the potential for fire suppression and potential hydrologic changes resulting from highways or other actions that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Unit FL–2

Unit FL–2 is comprised of two subunits encompassing 325 acres (132

ha) in Santa Rosa County, Florida. Within FL–2, there are 32 ac (13 ha) on State land managed by NWFLWMD and 293 acres (119 ha) are in private ownership.

Subunit A

Unit FL–2, Subunit A encompasses 162 acres (66 ha) on private land in Santa Rosa County, Florida. This currently occupied unit is located northeast of Milton, Florida. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include potential detrimental alterations in forestry practices that could destroy the below-ground soils structure, potential hydrological alterations to the habitat, and the potential for fire suppression.

Subunit B

Unit FL–2, Subunit B encompasses 163 ac (66 ha) in Santa Rosa County, Florida. Within this unit, there are 32 ac (13 ha) on State land managed by NWFLWMD and 131 acres (53 ha) on private land. This currently occupied unit is located south of Interstate 10 and near the Santa Rosa/Okaloosa County border. A small county road bisects the unit and a powerline crosses the eastern edge of the breeding pond. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from the road and powerline that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Unit FL–3

Unit FL–3 is comprised of three subunits encompassing 394 acres (178 ha) in Santa Rosa County, Florida. Within FL–3, 355 ac (144 ha) are on private land, 26 ac (11 ha) are on property owned by the Santa Rosa County School Board, and 13 ac (5 ha) are owned by Santa Rosa County.

Subunit A

Unit FL–3, Subunit A encompasses 148 acres (60 ha) on private land in Santa Rosa County, Florida. This currently occupied unit is located near a rapidly developing section of Hwy. 98 between Navarre and Gulf Breeze, Florida. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soils structure, potential hydrologic changes resulting from the highway that could alter the ecology of the breeding pond and surrounding terrestrial habitat, and potential habitat destruction due to urban and commercial development nearby.

Subunit B

Unit FL–3, Subunit B encompasses 68 ac (28 ha) in Santa Rosa County, Florida. Within this unit, 42 ac (17 ha) are on private land and 26 ac (11 ha) are on property owned by the Santa Rosa County School Board. This currently occupied unit is located near a rapidly developing section of Hwy. 98 between Navarre and Gulf Breeze, Florida. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soils structure, potential hydrologic changes resulting from adjacent roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat, and future habitat destruction due to urban and commercial development.

Subunit C

Unit FL–3, Subunit C encompasses 178 ac (72 ha) in Santa Rosa County, Florida. Within this unit, 165 ac (67 ha) are on private land and 13 ac (5 ha) are owned by Santa Rosa County. This currently occupied unit is located near a rapidly developing section of Hwy. 98 east of Navarre, Florida. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soils structure, potential hydrologic changes resulting from adjacent roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat, and future habitat destruction due to urban and commercial development.

Unit FL–4

Unit FL–4 encompasses 162 ac (66 ha) on the Point Washington State Forest (managed by the State of Florida/Division of Forestry), Walton County, Florida. Since the lands located in this unit are owned by the State of Florida, they are likely protected from direct agricultural and urban development; however, threats remain to the flatwoods salamander and its habitat that may require special management of the PCEs. They include the potential for fire suppression and potential detrimental alterations in forestry practices that could destroy the below-ground soil structure.

Unit FL–5

Unit FL–5 is comprised of two subunits encompassing 375 ac (152 ha) in Walton and Washington Counties, Florida. Within FL–5, 213 ac (86 ha) on private land in Walton County, Florida, and 162 ac (66 ha) are located on Pine Log State Forest (managed by the state of Florida/Division of Forestry) in Washington County, Florida.

Subunit A

Unit FL–5, Subunit A encompasses 213 ac (86 ha) on private land in Walton County, Florida. This currently occupied unit is bisected by Hwy. 81 near Bruce, Florida. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Subunit B

Unit FL–5, Subunit B encompasses 162 ac (66 ha) on Pine Log State Forest (managed by the State of Florida/Division of Forestry) in Washington County, Florida. Since the lands located in this unit are owned by the State of Florida, they are likely protected from direct agricultural and urban development; however, threats remain to the flatwoods salamander and its habitat that may require special management of the PCEs. They include the potential for fire suppression and potential detrimental alterations in forestry practices that could destroy the below-ground soil structure.

Unit FL–6

Unit FL–6 is comprised of three subunits encompassing 489 ac (199 ha) on private land in Holmes and Washington Counties, Florida.

Subunit A

Unit FL–6, Subunit A encompasses 162 ac (66 ha) on private land in Holmes County, Florida. This currently occupied unit is located just west of Hwy. 173 and approximately 5.5 mi (8.8 km) north of Bonifay, Florida. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential expansion of agriculture into the unit, potential detrimental alterations in forestry

practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Subunit B

Unit FL–6, Subunit B encompasses 162 ac (66 ha) in Washington County, Florida. Within this unit, 14 ac (6 ha) occur on the Pine Log State Forest (managed by the State of Florida/Division of Forestry) and 148 ac (60 ha) on private land. This currently occupied unit is located just south of Hwy. 170 and approximately 3.5 mi (5.6 km) west of Vernon, Florida. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Subunit C

Unit FL–6, Subunit C encompasses 165 ac (67 ha) on private land in Washington County, Florida. This currently occupied unit is located just south of Hwy. 278 and approximately 4 mi (6.4 km) west of Vernon, Florida. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Unit FL–7

Unit FL–7 is comprised of three subunits encompassing 759 ac (308 ha) on private land in Jackson County, Florida.

Subunit A

Unit FL–7, Subunit A encompasses 157 ac (64 ha) on private land in western Jackson County, Florida near the Jackson/Washington County line. This currently occupied unit is located just south of Hwy. 90 and east of Hwy. 195 approximately 10 mi (16 km) west of Mariana, Florida. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential expansion of agriculture and residential development into the unit, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Subunit B

Unit FL–7, Subunit B encompasses 358 ac (145 ha) on private land in Jackson County, Florida. This currently occupied unit is located just east of Hwy. 71 and south of Hwy. 90, between Old Spanish Trail and the CSX railroad. This locality is approximately 4 mi (6.4 km) southeast of Marianna, Florida. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential expansion of agriculture and residential development into the unit, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Subunit C

Unit FL–7, Subunit C encompasses 244 acres (99 ha) on private land in Jackson County, Florida. This currently occupied unit is bisected by Hwy. 275, south of Interstate 10 near Wolf Slough. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential expansion of agriculture and residential development into the unit, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Unit FL–8

Unit FL–8 is comprised of three subunits encompassing 486 acres (198 ha) on private land in Calhoun County, Florida.

Subunit A

Unit FL–8, Subunit A encompasses 162 acres (66 ha) on private land in Calhoun County, Florida. This currently occupied unit is bisected by a county road in the vicinity of Broad Branch and is on the south side of Hwy. 392 (Youngstown Scotts Ferry Road) approximately 4 mi (6.4 km) west of Kinard, Florida. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Subunit B

Unit FL–8, Subunit B encompasses 162 acres (66 ha) on private land in Calhoun County, Florida. This currently occupied unit is bisected by a county road and is approximately 5 mi (8 km) south of Hwy. 71 at Scotts Ferry, Florida. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Subunit C

Unit FL–8, Subunit C encompasses 162 acres (66 ha) on private land in Calhoun County, Florida. This currently occupied unit is bisected by a county road and is approximately 3 mi (4.8 km) south of Hwy. 71 at Scotts Ferry, Florida. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Unit FL–9

Unit FL–9 is comprised of 11 subunits encompassing 23,073 ac (9,338 ha) in Liberty and Franklin Counties, Florida. Most of the subunits are comprised primarily of U. S. Forest Service land lying within the Apalachicola National Forest.

Subunit A

Unit FL–9, Subunit A encompasses 162 acres (66 ha) on private land in Liberty County, Florida. This currently occupied unit is east of Hwy. 12 near Estiffanulga, Florida. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire

suppression, potential urban and agricultural development, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Subunits B Through K

Subunits B through K are comprised primarily of U. S. Forest Service land lying within the Apalachicola National Forest in Liberty and Franklin counties, Florida. The combined acreage of these currently occupied units is 22,911 ac (9,272 ha). Within the units, 21,728 ac (8,793 ha) are in the Apalachicola National Forest, 46 ac (19 ha) are under State management, and 1,137 ac (460 ha) are in private ownership. Lands within these units owned by the U.S. Forest Service are likely protected from direct agricultural and urban development; however, threats remain to the flatwoods salamander and its habitat that may require special management of the PCEs. These subunits require special management to address threats including the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent highways and roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Subunit B

Unit FL–9, Subunit B encompasses 3,357 ac (1, 359 ha). Within this unit, 2,846 ac (1,152 ha) are in the Apalachicola National Forest and 511 ac (207 ha) are in private ownership.

Subunit C

Unit FL–9, Subunit C encompasses 1,116 ac (452 ha). Within this unit, 1,084 ac (439 ha) are in the Apalachicola National Forest and 32 ac (13 ha) are in private ownership.

Subunit D

Unit FL–9, Subunit D encompasses 333 ac (135 ha). All of this unit is within the Apalachicola National Forest.

Subunit E

Unit FL–9, Subunit E encompasses 1,790 ac (725 ha). Within this unit, 1,739 ac (704 ha) are in the Apalachicola National Forest and 51 ac (21 ha) are in private ownership.

Subunit F

Unit FL–9, Subunit F encompasses 5,200 ac (2,105 ha). Within this unit, 4,969 ac (2,011 ha) are in the Apalachicola National Forest and 231 ac (94 ha) are in private ownership.

Subunit G

Unit FL–9, Subunit G encompasses 258 ac (104 ha). All of this unit is within the Apalachicola National Forest.

Subunit H

Unit FL–9, Subunit H encompasses 8,481 ac (3,432 ha). Within this unit, 8,176 ac (3,309 ha) are in the Apalachicola National Forest and 305 ac (123 ha) are in private ownership.

Subunit I

Unit FL–9, Subunit I encompasses 1,255 ac (508 ha). Within this unit, 1,209 ac (489 ha) are in the Apalachicola National Forest and 46 ac (19 ha) are under State management. This unit was not known to be occupied at the time of listing, but is currently occupied. It is considered essential habitat for the flatwoods salamander. The currently occupied habitat of the flatwoods salamander is highly localized and fragmented. Flatwoods salamanders are particularly susceptible to drought, as breeding cannot occur if breeding ponds do not receive adequate rainfall. These small populations are at a high risk of extinction due to stochastic events such as drought, and human-induced threats such as urban/agricultural development and habitat degradation due to fire suppression and hydrological alterations. Thus, to ensure the persistence and conservation of this species throughout its current geographic and ecological distribution despite fluctuations in the status of subpopulations, we have determined that the two units known to be occupied since the time of listing are essential to the conservation of the species.

Subunit J

Unit FL–9, Subunit J encompasses 312 ac (126 ha). All of this unit is within the Apalachicola National Forest. This unit was not known to be occupied at the time of listing, but is currently occupied. It is considered essential habitat for the flatwoods salamander. The currently occupied habitat of the flatwoods salamander is highly localized and fragmented. Flatwoods salamanders are particularly susceptible to drought, as breeding cannot occur if breeding ponds do not receive adequate rainfall. These small populations are at a high risk of extinction due to stochastic events such as drought, and human-induced threats such as urban/agricultural development and habitat degradation due to fire suppression and hydrological alterations. Thus, to ensure the persistence and conservation of this species throughout its current geographic and ecological distribution despite fluctuations in the status of subpopulations, we have determined that the two units known to be occupied since the time of listing are essential to the conservation of the species.

Subunit K

Unit FL–9, Subunit K encompasses 809 ac (328 ha). Within this unit, 802 ac (325 ha) are in the Apalachicola National Forest and 7 ac (3 ha) are in private ownership.

Unit FL–10

Unit FL–10 encompasses 162 ac (66 ha) on Tate's Hell State Forest (managed by the State of Florida's Division of Forestry) in Franklin County, Florida. Since this unit is owned by the State of Florida, it is likely protected from direct agricultural and urban development; however, threats remain to the flatwoods salamander and its habitat that may require special management of the PCEs. They include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent highways and roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Unit FL–11

Unit FL–11 is comprised of five subunits encompassing 1,841 ac (746 ha) in Wakulla and Jefferson Counties, Florida.

Subunit A

Unit FL–11, Subunit A encompasses 919 ac (372 ha) on private land/Flint Rock Wildlife Management Area (managed by private entity at this time) in Wakulla County, Florida. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent highways and roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Subunit B

Unit FL–11, Subunit B encompasses 162 ac (66 ha) on private land/Flint Rock Wildlife Management Area (managed by private entity at this time) in Wakulla County, Florida. Threats to the flatwoods salamander and its habitat that may require special management of

the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent highways and roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Subunit C

Unit FL–11, Subunit C encompasses 435 ac (176 ha) on private land/Flint Rock Wildlife Management Area (managed by private entity at this time) in Wakulla and Jefferson counties, Florida. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent highways and roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Subunit D

Unit FL–11, Subunit D encompasses 162 ac (66 ha) on private land in Jefferson County, Florida. This currently occupied unit is approximately 1.7 mi (2.7 km) south of U.S. Hwy. 98 and approximately 1.3 mi (2.1 km) east of the Jefferson/Wakulla County line. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Subunit E

Unit FL–11, Subunit E encompasses 163 ac (66 ha) in Jefferson County, Florida. Within this unit, 85 ac (34 ha) are in the Aucilla Wildlife Management Area managed by the State of Florida and 78 ac (32 ha) are in private ownership. This currently occupied unit is bisected by State Hwy. 59, 5.3 mi (8.4 km) north of U.S. Hwy. 98 approximately 2 mi (3.2 km) east of the Jefferson/Wakulla County line. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Unit FL–12

Unit FL–12 is comprised of two subunits encompassing 1,109 ac (449 ha) on Osceola NF and 162 ac (66 ha) in private ownership both in Baker County, Florida.

Subunit A

Unit FL–12, Subunit A encompasses 1,109 ac (449 ha) on Osceola National Forest in Baker County, Florida. This currently occupied unit is located adjacent and south of Interstate 10 in the southwestern corner of Baker County between state highway 250 and 229. Since it is owned by the U.S. Forest Service, it is likely protected from direct agricultural and urban development; however, threats remain to the flatwoods salamander and its habitat that may require special management of the PCEs. They include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent highways and roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Subunit B

Unit FL–12, Subunit B encompasses 162 ac (66 ha) on private land in Baker County, Florida. This currently occupied unit occurs approximately 2 mi (3.2 km) south of Hwy. 229 and 3.5 mi (5.6 km) north of Interstate 10. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent highways and roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Georgia Critical Habitat Units (GA)

There is one Georgia unit, divided into three subunits encompassing 609 ac (247 ha) across two counties of Georgia. All subunits meet the definition of critical habitat based on the discussion above and all units contain all PCEs. All subunits were known to be occupied at the time of listing and are currently occupied.

Unit GA–1

Unit GA–1 encompasses 609 ac (247 ha) in Miller and Baker Counties, Georgia. Within this unit 163 ac (66 ha) are located on Mayhaw Wildlife Management Area (managed by the State of Georgia) in Miller County, Georgia, 269 ac (109 ha) are located on private land adjacent to State Highway 200 in southwestern Baker County, Georgia, and 177 ac (72 ha) are located on private land south of State Highway 200 in southwestern Baker County, Georgia.

Subunit A

Unit GA–1, Subunit A encompasses 163 ac (66 ha) on Mayhaw Wildlife Management Area (managed by the State of Georgia) in Miller County, Georgia. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent highways and roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Subunit B

Unit GA–1, Subunit B encompasses 269 ac (109 ha) on private land adjacent to State Highway 200 in southwestern Baker County, Georgia. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent highways and roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Subunit C

Unit GA–1, Subunit C encompasses 177 ac (72 ha) on private land south of State Highway 200 in southwestern Baker County, Georgia. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent highways and roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

South Carolina Critical Habitat Units (SC)

There are four South Carolina units encompassing 1,130 ac (457 ha) across three counties of South Carolina. All units meet the definition of critical

habitat based on the discussion above and all units contain all PCEs. All units were known to be occupied at the time of listing and are currently occupied. The northern-most known occurrences of the flatwoods salamander are represented by populations in South Carolina.

Unit SC–1

Unit SC–1 encompasses 163 ac (66 ha) on private land in Jasper County, South Carolina. This currently occupied unit is bisected by Hwy. 46 and occurs near a rapidly developing area of Jasper County. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soils structure, potential hydrologic changes resulting from adjacent roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat, and future habitat destruction due to urban and commercial development.

Unit SC–2

Unit SC–2 encompasses 183 acres (74 ha) on private land in Jasper County, South Carolina. This currently occupied unit is bisected by County Road 31, approximately 1 mi (1.6 km) from U.S. Hwy. 321 at Hardeeville, South Carolina. Threats to the flatwoods salamander and its habitat that may require special management of the PCEs include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soils structure, potential hydrologic changes resulting from adjacent roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat, and future habitat destruction due to urban and commercial development.

Unit SC–3

Unit SC–3 encompasses 622 ac (252 ha) on Francis Marion National Forest in Berkeley County, South Carolina. Land within this unit is owned by the U.S. Forest Service and is likely protected from direct agricultural and urban development; however, threats remain to the flatwoods salamander and its habitat that may require special management of the PCEs. They include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent highways and roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Unit SC–4

Unit SC–4 encompasses 162 ac (66 ha) on the Santee Coastal Reserve (managed by the state of South Carolina) in Charleston County, South Carolina. Since this currently occupied unit is owned by the State of South Carolina, it is likely protected from direct agricultural and urban development; however, threats remain to the flatwoods salamander and its habitat that may require special management of the PCEs. They include the potential for fire suppression, potential detrimental alterations in forestry practices that could destroy the below-ground soil structure, and potential hydrologic changes resulting from adjacent highways and roads that could alter the ecology of the breeding pond and surrounding terrestrial habitat.

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7 of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. In our regulations at 50 CFR 402.02, we define destruction or adverse modification as ''a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include, but are not limited to, alterations adversely modifying any of those physical or biological features that were the basis for determining the habitat to be critical.'' However, recent decisions by the 5th and 9th Circuit Courts of Appeals have invalidated this definition (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service,* 378 F.3d 1059 (9th Cir 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service et al.*, 245 F.3d 434, 442F (5th Cir 2001)). Pursuant to current national policy and the statutory provisions of the Act, destruction or adverse modification is determined on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the primary constituent elements to be functionally established) to serve the intended conservation role for the species.

Section 7(a) of the Act requires Federal agencies, including the Service, to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is proposed or designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402.

Section 7(a)(4) of the Act requires Federal agencies to confer with us on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. This is a procedural requirement only. However, once a proposed species becomes listed, or proposed critical habitat is designated as final, the full prohibitions of section 7(a)(2) apply to any Federal action. The primary utility of the conference procedures is to maximize the opportunity for a Federal agency to adequately consider proposed species and critical habitat and avoid potential delays in implementing its proposed action as a result of the section 7(a)(2) compliance process, should those species be listed or the critical habitat designated.

Under conference procedures, the Service may provide advisory conservation recommendations to assist the agency in eliminating conflicts that may be caused by the proposed action. The Service may conduct either informal or formal conferences. Informal conferences are typically used if the proposed action is not likely to have any adverse effects to the proposed species or proposed critical habitat. Formal conferences are typically used when the Federal agency or the Service believes the proposed action is likely to cause adverse effects to proposed species or critical habitat, inclusive of those that may cause jeopardy or adverse modification.

The results of an informal conference are typically transmitted in a conference report while the results of a formal conference are typically transmitted in a conference opinion. Conference opinions on proposed critical habitat are typically prepared according to 50 CFR 402.14, as if the proposed critical habitat were already designated. We may adopt the conference opinion as the biological opinion when the critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)). As noted above, any conservation recommendations in a conference report or opinion are strictly advisory.

If a species is listed or critical habitat is designated, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may

affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. As a result of this consultation, compliance with the requirements of section 7(a)(2) will be documented through the Service's issuance of: (1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or (2) a biological opinion for Federal actions that may affect, and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to result in jeopardy to a listed species or the destruction or adverse modification of critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. ''Reasonable and prudent alternatives'' are defined at 50 CFR 402.02 as alternative actions identified during consultation that can be implemented in a manner consistent with the intended purpose of the action, that are consistent with the scope of the Federal agency's legal authority and jurisdiction, that are economically and technologically feasible, and that the Director believes would avoid jeopardy to the listed species or destruction or adverse modification of critical habitat. Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where a new species is listed or critical habitat is subsequently designated that may be affected and the Federal agency has retained discretionary involvement or control over the action or such discretionary involvement or control is authorized by law. Consequently, some Federal agencies may request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions may affect subsequently listed species or designated critical habitat or adversely modify or destroy proposed critical habitat.

Federal activities that may affect the flatwoods salamander or its designated critical habitat will require section 7 consultation under the Act. Activities on State, Tribal, local or private lands requiring a Federal permit (such as a permit from the Corps under section 404 of the Clean Water Act or a permit under section 10(a)(1)(B) of the Act from the Service) or involving some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency) will also be subject to the section 7 consultation process. Federal actions not affecting listed species or critical habitat, and actions on State, Tribal, local or private lands that are not federally funded, authorized, or permitted, do not require section 7 consultations.

Application of the Jeopardy and Adverse Modification Standards for Actions Involving Effects to the Flatwoods Salamander and Its Critical Habitat

Jeopardy Standard

Prior to the proposed designation of critical habitat, the Service has applied an analytical framework for flatwoods salamander jeopardy analyses that relies heavily on the importance of populations to the survival and recovery of the flatwoods salamander. The section 7(a)(2) analysis is focused not only on these populations but also on the habitat conditions necessary to support them.

The jeopardy analysis usually expresses the survival and recovery needs of the flatwoods salamander in a qualitative fashion without making distinctions between what is necessary for survival and what is necessary for recovery. Generally, if a proposed Federal action is incompatible with the viability of the affected core area population(s), inclusive of associated habitat conditions, a jeopardy finding is warranted because of the relationship of each core area population to the survival and recovery of the species as a whole.

Adverse Modification Standard

For the reasons described in the Director's December 9, 2004, memorandum, the key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional (or retain the current ability for the primary constituent elements to be functionally established) to serve the intended conservation role for the species. Generally, the conservation role of flatwoods salamander critical habitat units is to support viable core area populations.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe in any proposed or final regulation that designates critical habitat those activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation. Activities that may destroy or adversely modify critical habitat may also jeopardize the continued existence of the species.

Activities that may destroy or adversely modify critical habitat are those that alter the PCEs to an extent that the conservation value of critical habitat for the flatwoods salamander is appreciably reduced. Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and therefore result in consultation for the flatwoods salamander include, but are not limited to:

(1) Actions that would significantly alter water chemistry in flatwoods salamander breeding ponds. Such activities could include, but are not limited to, the release of chemicals, biological pollutants, or sedimentation into the surface water or connected groundwater at a point source or by dispersed release (non-point source) via road construction, urban and agricultural development, ditching, timber harvest, off-road vehicle use, and other watershed disturbances. These activities could alter the condition of the water beyond the tolerances of the flatwoods salamander and its food base, resulting in direct or cumulative adverse affects to individuals and their life cycles.

(2) Actions that would significantly alter the hydroperiod and vegetation of a flatwoods salamander breeding pond. Such activities could include, but are not limited to, road construction, urban and agricultural development, dredging, ditching, or filling ponds, fire suppression, and timber harvest/replanting. These activities could alter the hydrologic timing, duration, or water flows of a pond basin, as well as alter the constituent vegetation. They could also increase the connectivity of breeding ponds to more permanent waters, which would allow the invasion of predatory fish. As a result, the habitat necessary for flatwoods salamander reproduction and the growth and development of eggs and juvenile salamanders would be reduced or eliminated.

(3) Actions that would significantly alter the terrestrial forested habitat of the flatwoods salamander. Such activities could include, but are not limited to, road construction, urban and agricultural development, dredging, ditching, fire suppression, and timber harvest/re-planting. These activities may lead to changes in soil moisture, soil below-ground structure, soil temperatures, and vegetation that would

degrade or eliminate the terrestrial habitat of the flatwoods salamander.

We consider all of the units proposed as critical habitat, as well as those that have been proposed for exclusion or not included, to contain features essential to the conservation of the flatwoods salamander. All units are within the geographic range of the species, all were occupied by the species at the time of or since listing (based on observations made within the last 9 years), and are likely to be used by the flatwoods salamander. Federal agencies already consult with us on activities in areas currently occupied by the flatwoods salamander, or if the species may be affected by the action, to ensure that their actions do not jeopardize the continued existence of the flatwoods salamander.

Application of Section 3(5)(A) and 4(a)(3) and Exclusions Under Section 4(b)(2) of the Act

Application of Section 3(5)(A)

Section 3(5)(A) of the Act defines critical habitat as the specific areas within the geographic area occupied by the species on which are found those physical and biological features (i) essential to the conservation of the species, and (ii) which may require special management considerations or protection. Therefore, areas within the geographic area occupied by the species that do not contain the features essential to the conservation of the species are not, by definition, critical habitat. Similarly, areas within the geographic area occupied by the species that require no special management or protection also are not, by definition, critical habitat.

There are multiple ways to provide management for species habitat. Statutory and regulatory frameworks that exist at a local level can provide such protection and management, as can lack of pressure for change, such as areas too remote for anthropogenic disturbance. Finally, State, local, or private management plans, as well as management under Federal agencies jurisdictions, can provide protection and management to avoid the need for designation of critical habitat. When we consider a plan to determine its adequacy in protecting habitat, we consider whether the plan as a whole will provide the same level of protection that designation of critical habitat would provide. The plan need not lead to exactly the same result as a designation in every individual application, as long as the protection it provides is equivalent overall. In making this determination, we examine whether the plan provides management, protection, or enhancement of the PCEs that is at least equivalent to that provided by a critical habitat designation, and whether there is a reasonable expectation that the management, protection, or enhancement actions will continue into the foreseeable future. Each review is particular to the species and the plan, and some plans may be adequate for some species and inadequate for others.

Application of Section 3(5)(A)—St. Marks National Wildlife Refuge

Approximately 1,907 ac (778 ha) on St. Marks National Wildlife Refuge (Refuge) in Florida have features essential to the conservation of the flatwoods salamander.

The Refuge finalized its Comprehensive Conservation Plan (CCP) in August 2006. This document details proposed conservation actions for the Refuge over a 15-year period and outlines an objective specifically addressing the species (U.S. Fish and Wildlife Service 2006, p. 50, 56, 79, 81, 91). This objective consists of strategies to identify flatwoods salamander distribution and habitat on the refuge and implement appropriate habitat management. Many other objectives (e.g., eradication or control of terrestrial exotic and invasive animals) will also benefit the flatwoods salamander. The Service has a statutory mandate to manage the Refuge for the conservation of listed species, and the CCP provides a detailed implementation plan. We believe that the CCP provides a substantial conservation benefit to the species, and there are assurances that it will be implemented properly and in an effective fashion within portions of the Refuge with habitat that contains the features essential to the conservation of the flatwoods salamander. Accordingly, we believe that these portions of the Refuge do not meet the definition of critical habitat under section 3(5)(A) of the Act because a secure management plan is already in place to provide for the conservation of the flatwoods salamander, and no special management or protection will be required.

Application of Section 4(a)(3)

The Sikes Act Improvement Act of 1997 (Sikes Act) (16 U.S.C. 670a) required each military installation that includes land and water suitable for the conservation and management of natural resources to complete, by November 17, 2001, an Integrated Natural Resource Management Plan (INRMP). An INRMP integrates implementation of the military mission of the installation with stewardship of the natural resources found on the base. Each INRMP includes an assessment of the ecological needs on the installation, including the need to provide for the conservation of listed species; a statement of goals and priorities; a detailed description of management actions to be implemented to provide for these ecological needs; and a monitoring and adaptive management plan. Among other things, each INRMP must, to the extent appropriate and applicable, provide for fish and wildlife management, fish and wildlife habitat enhancement or modification, wetland protection, enhancement, and restoration where necessary to support fish and wildlife and enforcement of applicable natural resource laws.

The National Defense Authorization Act for Fiscal Year 2004 (Public Law No. 108–136) amended the Act to limit areas eligible for designation as critical habitat. Specifically, section 4(a)(3)(B)(i) of the Act (16 U.S.C. 1533(a)(3)(B)(i)) now provides: ''The Secretary shall not designate as critical habitat any lands or other geographical areas owned or controlled by the Department of Defense, or designated for its use, that are subject to an integrated natural resources management plan prepared under section 101 of the Sikes Act (16 U.S.C. 670a), if the Secretary determines in writing that such plan provides a benefit to the species for which critical habitat is proposed for designation.''

We consult with the military on the development and implementation of INRMPs for installations with listed species. The Service reviewed each of the INRMPs described below prior to their finalization and has provided input into strategies for monitoring and management of endangered species including the flatwoods salamander. Each military facility has been conducting surveys and habitat management to benefit the flatwoods salamander and reporting the results of their efforts to the Service. Cooperation between the military facilities and the Service continues and the goal of our efforts is to implement an annual review cycle for all INRMPs. INRMPs developed by military installations located within the range of the proposed critical habitat designation for the flatwoods salamander were analyzed for exemption under the authority of 4(a)(3) of the Act.

Based on the above considerations, and in accordance with section 4(a)(3)(B)(i) of the Act, we have determined that conservation efforts identified in the INRMPs will provide benefits to the flatwoods salamander occurring in habitats within or adjacent to Whiting Field's Out-Lying Landing

Field Holley (290 ac (117 ha)), Eglin Air Force Base (3,191 ac (1,291 ha)), and Hurlburt Field in Florida (1,103 ac (446 ha)); and Townsend Bombing Range (162 ac (66 ha)) and Fort Stewart Military Installation in Georgia (5,121 ac (2,072 ha)). In total, this accounts for approximately 9,867 ac (3,993 ha) of habitat on these installations that is not included in this proposed critical habitat designation under to section 4(a)(3) of the Act. Following is an installation-by-installation discussion of the applicability of section 4(a)(3).

Application of Section 4(a)(3) of the Act—Whiting Field's Out-Lying Landing Field Holley (Holley Field)

Holley Field is located in Santa Rosa County, Florida, and has approximately 290 ac (117 ha) of habitat with features essential to the conservation of the flatwoods salamander. The U.S. Department of the Navy (DoN) drafted a revision of its 2001 INRMP for Naval Air Station Whiting Field Complex, of which Holley Field is a part, in 2006 (DoN 2006, p. 5–68, 5–70, 5–73, 5–76, 5–77, 6–22, 6–23, A–16). The revised INRMP outlines management for the next 10 years (2007–2016). We have examined this document and determined that it does provide conservation measures for the flatwoods salamander, as well as for the management of important wetland and upland habitats at Holley Field. The area of Holley Field where flatwoods salamander habitat is located has been designated as a Protected Area. The INRMP outlines a Special Management Initiative for the flatwoods salamander which includes a prescribed burning program, strategies to identify salamander distribution and habitat, controlling invasive species, enforcing restrictions on off-road vehicle use, and forestry management consistent with recommendations in the final listing rule (64 FR 15691).

Based on the above considerations, and consistent with the direction provided in section 4(a)(3)B)(i) of the Act, we have determined that conservation identified in the INRMP will provide benefits to the flatwoods salamander and the features essential to the species' conservation occurring on Whiting Field's Out-Lying Landing Field Holley. Therefore, approximately 290 ac (117 ha) of habitat with features essential to the conservation of the flatwoods salamander within Whiting Field's Out-Lying Landing Field Holley are exempt from this proposed designation of critical habitat for the flatwoods salamander under section 4(a)(3) of the Act.

Hurlburt Field

Hurlburt Field is located in Okaloosa County, Florida, and has approximately 1,103 ac (446 ha) of habitat with features essential to the conservation of the flatwoods salamander. The U.S. Department of the Defense and Air Force (DoD) completed an INRMP for Hurlburt Field in 2001 (DoD 2001, p. 37, 40, 51). The INRMP covers a period of 10 years. We have examined this document and determined that it does provide conservation measures for the flatwoods salamander, as well as for the management of important wetland and upland habitats at Hurlburt Field. The INRMP outlines goals and objectives for the flatwoods salamander and its habitat which include a prescribed burning program, strategies to identify and monitor salamander distribution and habitat, controlling invasive species, and forestry management consistent with recommendations in the final listing rule (64 FR 15691).

Based on the above considerations, and consistent with the direction provided in section 4(a)(3)B)(i) of the Act, we have determined that conservation identified in the INRMP will provide benefits to the flatwoods salamander and the features essential to the species' conservation occurring on Hurlburt Field. Therefore, approximately 1,103 ac (446 ha) of habitat with features essential to the conservation of the flatwoods salamander within Hurlburt Field is exempt from this proposed designation of critical habitat for the flatwoods salamander under section 4(a)(3) of the Act.

Eglin Air Force Base (Eglin)

Eglin is located in Santa Rosa and Okaloosa Counties, Florida, and has approximately 3,191 ac (1,291 ha) of habitat with features essential to the conservation of the flatwoods salamander. The DoD completed its INRMP for Eglin in 2002 (DoD 2002, p. 45. 65, 176). This INRMP covers a period of 4 years and is under review for renewal for another period of 4 years (2007 through 2011). We have examined this document and determined that it does provide conservation measures for the flatwoods salamander, as well as for the management of important wetland and upland habitats on Eglin. The INRMP outlines a management direction for the flatwoods salamander which includes a prescribed burning program, strategies to identify and monitor salamander distribution and habitat, controlling invasive species, and forestry management consistent with recommendations in the final listing rule (64 FR 15691).

Based on the above considerations, and consistent with the direction provided in section 4(a)(3)B)(i) of the Act, we have determined that conservation identified in the INRMP will provide benefits to the flatwoods salamander and the features essential to the species' conservation occurring on Eglin Air Force Base. Therefore, approximately 3,191 ac (1,291 ha) of habitat with features essential to the conservation of the flatwoods salamander within Eglin Air Force Base is exempt from this proposed designation of critical habitat for the flatwoods salamander under section 4(a)(3) of the Act.

Fort Stewart Military Installation (Fort Stewart)

Fort Stewart, U.S. Army installation, is located Bryan, Evans, Liberty, Long, and Tattnall Counties, Georgia and has approximately 5,121 ac (2,072 ha) of habitat with features essential to the conservation of the flatwoods salamander. The first INRMP (INRMP I) for Fort Stewart was completed in 2001 and updated in 2005 (DoD 2005, pp. 1, 22, 34, 76–77). Each INRMP covers a period of five years with a subsequent review and update every five years. Additionally, an annual review of management implementation is conducted and, if necessary, the INRMP is adapted to address needed improvements. The management direction from INRMP I is being continued in the review. We have examined this document and determined that it does provide conservation measures for the flatwoods salamander, as well as for the management of important wetland and upland habitats at Fort Stewart. The INRMP outlines management activities to be conducted for the flatwoods salamander (DoD 2005, p. 22). These include a prescribed burning program, strategies to identify and monitor flatwoods salamander distribution and habitat, controlling invasive species, and forestry management consistent with recommendations in the final listing rule (64 FR 15691).

Based on the above considerations, and consistent with the direction provided in section 4(a)(3)B)(i) of the Act, we have determined that conservation identified in the INRMP will provide benefits to the flatwoods salamander and the features essential to the species' conservation occurring on Fort Stewart Military Installation. Therefore, approximately 5,121 ac (2,072 ha) of habitat with features essential to the conservation of the

flatwoods salamander within Fort Stewart Military Installation is exempt from this proposed designation of critical habitat for the flatwoods salamander under section 4(a)(3) of the Act.

Townsend Bombing Range (Townsend)

Townsend is located in McIntosh County, Georgia, and contains approximately 162 ac (66 ha) of habitat with features essential to the conservation of the flatwoods salamander. The property is owned by the U.S. Department of the Navy and the land is managed by Marine Corps Air Station, Beaufort, South Carolina (MCAS Beaufort). The original INRMP written in 2001 for Townsend has been renewed to cover the period November 2006 through October 2011 (DoD 2006, pp. ES–1, ES–2, 1–3, 1–8, 1–9, 1–10, 3–15, 4–4, 4–8, 4–9, 4–10, 4–11, 4–19, 4–20, 4–22, 4–23, 4–27, 4–28, 4–29). We have examined this document and determined that it does provide conservation measures for the flatwoods salamander, as well as for the management of important wetland and upland habitats at Townsend. The INRMP includes activities to maintain or increase the salamander's population on Townsend through improvement of terrestrial habitat through use of prescribed fire and improvement of water quality and hydrologic regime of the breeding ponds. The INRMP provides biological goals and objectives, measures of success, provisions for annual monitoring and adaptive management, and provisions for reporting. The INRMP outlines projects which would benefit the flatwoods salamander including a prescribed burning program, strategies to identify and monitor salamander distribution and habitat, controlling invasive species, and conducting forestry management consistent with recommendations in the final listing rule (64 FR 15691).

Based on the above considerations, and consistent with the direction provided in section 4(a)(3)B)(i) of the Act, we have determined that conservation identified in the INRMP will provide benefits to the flatwoods salamander and the features essential to the species' conservation occurring on Townsend Bombing Range. Therefore, approximately 162 ac (66 ha) of habitat with features essential to the conservation of the flatwoods salamander within Townsend Bombing Range is exempt from this proposed designation of critical habitat for the flatwoods salamander under section 4(a)(3) of the Act.

Exclusions Under Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that critical habitat shall be designated, and revised, on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact, of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of such exclusion outweigh the benefits of specifying such area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate such area as critical habitat will result in the extinction of the species. In making that determination, the Congressional record is clear that the Secretary is afforded broad discretion regarding which factor(s) to use and how much weight to give to any factor.

Under section 4(b)(2), in considering whether to exclude a particular area from the designation, we must identify the benefits of including the area in the designation, identify the benefits of excluding the area from the designation, determine whether the benefits of exclusion outweigh the benefits of inclusion. If an exclusion is contemplated, then we must determine whether excluding the area would result in the extinction of the species. In the following sections, we address a number of general issues that are relevant to the exclusions we considered. In addition, the Service is conducting an economic analysis of the impacts of the proposed critical habitat designation and related factors, which will be available for public review and comment. Based on public comment on that document, the proposed designation itself, and the information in the final economic analysis, additional areas beyond those identified in this assessment may be excluded from critical habitat by the Secretary under the provisions of section 4(b)(2) of the Act. This is provided for in the Act and in our implementing regulations at 50 CFR 242.19.

General Principles of Section 7 Consultations Used in the 4(b)(2) Balancing Process

The most direct, and potentially largest, regulatory benefit of critical habitat is that federally authorized, funded, or carried out activities require consultation under section 7 of the Act to ensure that they are not likely to destroy or adversely modify critical habitat. There are two limitations to this regulatory effect. First, it only applies where there is a Federal nexus—if there is no Federal nexus, designation itself does not restrict actions that destroy or adversely modify critical habitat. Second, it only limits destruction or adverse modification. By its nature, the prohibition on adverse modification is designed to ensure those areas that contain the physical and biological features essential to the conservation of the species or unoccupied areas that are essential to the conservation of the species are not eroded. Critical habitat designation alone, however, does not require specific steps toward recovery.

Once consultation under section 7 of the Act is triggered, the process may conclude informally when the Service concurs in writing that the proposed Federal action is not likely to adversely affect the listed species or its critical habitat. However, if the Service determines through informal consultation that adverse impacts are likely to occur, then formal consultation would be initiated. Formal consultation concludes with a biological opinion issued by the Service on whether the proposed Federal action is likely to jeopardize the continued existence of a listed species or result in destruction or adverse modification of critical habitat, with separate analyses being made under both the jeopardy and the adverse modification standards. For critical habitat, a biological opinion that concludes in a determination of no destruction or adverse modification may contain discretionary conservation recommendations to minimize adverse effects to primary constituent elements, but it would not contain any mandatory reasonable and prudent measures or terms and conditions. Mandatory measures and terms and conditions to implement such measures are only specified when the proposed action would result in the incidental take of a listed animal or species. Reasonable and prudent alternatives to the proposed Federal action would only be suggested when the biological opinion results in a jeopardy or adverse modification conclusion.

We also note that for 30 years prior to the Ninth Circuit Court's decision in *Gifford Pinchot* the Service conflated the jeopardy standard with the standard for destruction or adverse modification of critical habitat when evaluating Federal actions that affect currently occupied critical habitat. The Court ruled that the two standards are distinct and that adverse modification evaluations require consideration of impacts on the recovery of species. Thus, under the *Gifford Pinchot* decision, critical habitat designations

may provide greater benefits to the recovery of a species. However, we believe the conservation achieved through implementing HCPs or other habitat management plans is typically greater than would be achieved through multiple site-by-site, project-by-project, section 7 consultations involving consideration of critical habitat. Management plans commit resources to implement long-term management and protection to particular habitat for at least one and possibly other listed or sensitive species. Section 7 consultations only commit Federal agencies to prevent adverse modification to critical habitat caused by the particular project, and they are not committed to provide conservation or long-term benefits to areas not affected by the proposed project. Thus, any HCP or management plan that considers enhancement or recovery as the management standard will often provide as much or more benefit than a consultation for critical habitat designation conducted under the standards required by the Ninth Circuit in the *Gifford Pinchot* decision.

Exclusions Under Section 4(b)(2)—National Forests

We have evaluated the Forest Management Plans for Francis Marion, Osceola, and Apalachicola National Forests with respect to providing adequate protection and management for the flatwoods salamander. At this time, none of these Plans provide sufficient protection and management to satisfy the criteria necessary for proposed exclusion from critical habitat (i.e., at this point the benefits of possible exclusion do not outweigh the benefits of inclusion). However, it is possible that improvements in National Forest management, through amendment to forest plans, development of species-specific management prescriptions, or other management approaches, coupled with assurances of implementation, will enable us to exclude one or more of these National Forests from the final designation of critical habitat. Therefore, we are specifically soliciting public comment on the possible exclusion of the units in these National Forests from critical habitat in the final designation.

Economic Analysis

An analysis of the economic impacts of proposing critical habitat for the flatwoods salamander is being prepared. We will announce the availability of the draft economic analysis as soon as it is completed, at which time we will seek public review and comment. At that time, copies of the draft economic analysis will be available for downloading from the Internet at *http://www.fws.gov/southeast/hotissues/,* or by contacting the Mississippi Fish and Wildlife Office directly (see **ADDRESSES** section).

Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we will seek the expert opinions of at least three appropriate and independent specialists regarding this proposed rule. The purpose of such review is to ensure that our critical habitat designation is based on scientifically sound data, assumptions, and analyses. We will send copies of this proposed rule to these peer reviewers immediately following publication in the **Federal Register**. We will invite these peer reviewers to comment, during the public comment period, on the specific assumptions and conclusions regarding the proposed designation of critical habitat.

We will consider all comments and information received during the comment period on this proposed rule during preparation of a final rulemaking. Accordingly, the final decision may differ from this proposal.

Public Hearings

The Act provides for one or more public hearings on this proposal, if requested. Requests for public hearings must be made in writing at least 15 days prior to the close of the public comment period. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings in the **Federal Register** and local newspapers at least 15 days prior to the first hearing.

Clarity of the Rule

Executive Order 12866 (Regulatory Planning and Review) requires each agency to write regulations and notices that are easy to understand. We invite your comments on how to make this proposed rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed rule clearly stated? (2) Does the proposed rule contain technical jargon that interferes with the clarity? (3) Does the format of the proposed rule (grouping and order of the sections, use of headings, paragraphing, and so forth) aid or reduce its clarity? (4) Is the description of the notice in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? (5) What else could we do to make this proposed rule easier to understand?

Send a copy of any comments on how we could make this proposed rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may e-mail your comments to this address: *Exsec@ios.doi.gov*.

Required Determinations

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule in that it may raise novel legal and policy issues, but it is not anticipated to have an annual effect on the economy of $100 million or more or affect the economy in a material way. Due to the tight timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) has not formally reviewed this rule. We are preparing a draft economic analysis of this proposed action, which will be available for public comment, to determine the economic consequences of designating the specific area as critical habitat. This economic analysis also will be used to determine compliance with Executive Order 12866, Regulatory Flexibility Act, Small Business Regulatory Enforcement Fairness Act, and Executive Order 12630, Executive 13211, and Executive Order 12875.

Further, Executive Order 12866 directs Federal Agencies promulgating regulations to evaluate regulatory alternatives (Office of Management and Budget, Circular A–4, September 17, 2003). Pursuant to Circular A–4, once it has been determined that the Federal regulatory action is appropriate, then the agency will need to consider alternative regulatory approaches. Since the determination of critical habitat is a statutory requirement pursuant to the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), we must then evaluate alternative regulatory approaches, where feasible, when promulgating a designation of critical habitat.

In developing our designation of critical habitat, we consider economic impacts, impacts to national security, and other relevant impacts pursuant to section 4(b)(2) of the Act. Based on the discretion allowable under this provision, we may exclude any particular area from the designation of critical habitat providing that the benefits of such exclusion outweigh the benefits of specifying the area as critical habitat and that such exclusion would not result in the extension of the

subspecies. As such, we believe that the evaluation of the inclusion or exclusion of particular areas, or combination thereof, in a designation constitutes our regulatory alternative analysis.

Within these areas, the types of Federal actions or authorized activities that we have identified as potential concerns are listed above in the section on Section 7 Consultation. The availability of the draft economic analysis will be announced in the **Federal Register** and in local newspapers so that it is available for public review and comments. The draft economic analysis can be obtained from the internet Web site at *http://www.fws.gov/southeast/hotissues/,* or by contacting the Mississippi Fish and Wildlife Office directly (see **ADDRESSES** section).

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the Regulatory Flexibility Act (RFA) to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

At this time, the Service lacks the available economic information necessary to provide an adequate factual basis for the required RFA finding. Therefore, the RFA finding is deferred until completion of the draft economic analysis prepared pursuant to section 4(b)(2) of the Act and E.O. 12866. This draft economic analysis will provide the required factual basis for the RFA finding. Upon completion of the draft economic analysis, the Service will publish a notice of availability of the draft economic analysis of the proposed designation and reopen the public comment period for the proposed designation for an additional 60 days. The Service will include with the notice of availability, as appropriate, an initial regulatory flexibility analysis or a certification that the rule will not have a significant economic impact on a substantial number of small entities accompanied by the factual basis for that determination. The Service has concluded that deferring the RFA finding until completion of the draft economic analysis is necessary to meet the purposes and requirements of the RFA. Deferring the RFA finding in this manner will ensure that the Service makes a sufficiently informed determination based on adequate economic information and provides the necessary opportunity for public comment.

Executive Order 13211

On May 18, 2001, the President issued an Executive Order (E.O. 13211; Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use) on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this proposed rule to designate critical habitat for the flatwoods salamander is a significant regulatory action under Executive Order 12866, it is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501), the Service makes the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute or regulation that would impose an enforceable duty upon State, local, Tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or Tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and Tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or Tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above on to State governments.

(b) We do not believe that this rule will significantly or uniquely affect small governments because it is not likely to produce a Federal mandate of $100 million or greater in any year, that is, it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act. Most lands being proposed for critical habitat designation owned by a government entity are Federal or State properties. In addition, the designation of critical habitat imposes no obligations on State or local governments. As such, a Small Government Agency Plan is not required. However, as we conduct our economic analysis, we will further evaluate this issue.

Takings

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally

Protected Private Property Rights''), we have analyzed the potential takings implications of designating critical habitat for the flatwoods salamander in a takings implications assessment. The takings implications assessment concludes that this designation of critical habitat for the flatwoods salamander does not pose significant takings implications. However, we will further evaluate this issue as we conduct our economic analysis and review and revise this assessment as warranted.

Federalism

In accordance with Executive Order 13132 (Federalism), the rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of, this proposed critical habitat designation with appropriate State resource agencies in Florida, Georgia, and South Carolina. The designation of critical habitat in areas currently occupied by the flatwoods salamander imposes no additional restrictions to those currently in place and, therefore, has little incremental impact on State and local governments and their activities. The designation may have some benefit to these governments in that the areas that contain the features essential to the conservation of the species are more clearly defined, and the primary constituent elements of the habitat necessary to the conservation of the species are specifically identified. While making this definition and identification does not alter where and what federally sponsored activities may occur, it may assist these local governments in long-range planning (rather than waiting for case-by-case section 7 consultations to occur).

Civil Justice Reform

In accordance with Executive Order 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed designating critical habitat in accordance with the provisions of the Endangered Species Act. This proposed rule uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the flatwoods salamander.

Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.)

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

It is our position that, outside the Tenth Circuit, we do not need to prepare environmental analyses as defined by the NEPA in connection with designating critical habitat under the Endangered Species Act of 1973, as amended. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld in the courts of the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. Ore. 1995), cert. denied 116 S. Ct. 698 (1996).

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175, and the Department of Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. We have determined that there are no tribal lands occupied at the time of listing that contain the features essential for the conservation and no tribal lands that are unoccupied areas that are essential for the conservation of the flatwoods salamander. Therefore, designation of critical habitat for the flatwoods salamander has not been designated on Tribal lands.

References Cited

A complete list of all references cited in this rulemaking is available upon request from the Field Supervisor, Mississippi Fish and Wildlife Office (see **ADDRESSES** section).

Author(s)

The primary author of this package is Linda LaClaire of the Mississippi Fish and Wildlife Office (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.11(h), revise the entry for ''Salamander, flatwoods'' under ''AMPHIBIANS'' to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
AMPHIBIANS							
*	*	*	*	*	*		*
Salamander, flatwoods.	*Ambystoma cingulatum.*	U.S.A. (AL, FL, GA, SC).	Entire	T	658	17.95(d)	NA
*	*	*	*	*	*		*

3. Amend § 17.95(d) by adding an entry for ''Flatwoods salamander (*Ambystoma cingulatum*)'' in the same order that the species appears in the table at § 17.11(h), to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(d) *Amphibians.*

* * * * *

Flatwoods salamander (*Ambystoma cingulatum*)

(1) Critical habitat units are depicted for Baker, Calhoun, Franklin, Holmes, Jackson, Jefferson, Liberty, Santa Rosa, Wakulla, Walton, and Washington Counties in Florida; Baker and Miller Counties in Georgia; and Berkeley, Charleston, and Jasper Counties in South Carolina, on the maps below.

(2) The primary constituent elements of critical habitat for the flatwoods salamander are the habitat components that provide:

(i) *Breeding habitat.* Small (generally <1 to 10 acres (ac) (<0.4 to 4.0 hectares (ha)), acidic, depressional standing bodies of freshwater (wetlands) that:

(A) Are seasonally-flooded by rainfall in late fall or early winter and dry in late spring or early summer;

(B) Are geographically isolated from other water bodies;

(C) Occur within pine-flatwoods/savanna communities;

(D) Are dominated by grasses and grass-like species in the ground layer and overstories of pond cypress, blackgum, and slash pine;

(E) Have a relatively open canopy, necessary to maintain the herbaceous component which serves as cover for flatwoods salamander larvae and their aquatic invertebrate prey; and

(F) Typically have a burrowing crayfish fauna, but, due to periodic drying, the breeding ponds typically lack large, predatory fish (e.g., *Lepomis* (sunfish), *Micropterus* (bass), *Amia calva* (bowfin)).

(ii) *Non-breeding habitat.* Upland pine flatwoods/savanna habitat that is open, mesic woodland maintained by frequent fires and that:

(A) Is within 1,500 ft (457 m) of adjacent and accessible breeding ponds;

(B) Contains crayfish burrows or other underground habitat that the flatwoods salamander depends upon for food, shelter, and protection from the elements and predation;

(C) Has an organic hardpan in the soil profile, which inhibits subsurface water penetration and typically results in moist soils with water often at or near the surface under normal conditions; and

(D) Often has wiregrasses as the dominant grasses in the abundant herbaceous ground cover, which supports the rich herbivorous invertebrates that serve as a food source for the flatwoods salamander.

(iii) *Dispersal habitat.* Upland habitat areas between non-breeding and breeding habitat that allow for salamander movement between such sites and that is characterized by:

(A) A mix of vegetation types representing a transition between wetland and upland vegetation (ecotone);

(B) An open canopy and abundant native herbaceous species; and

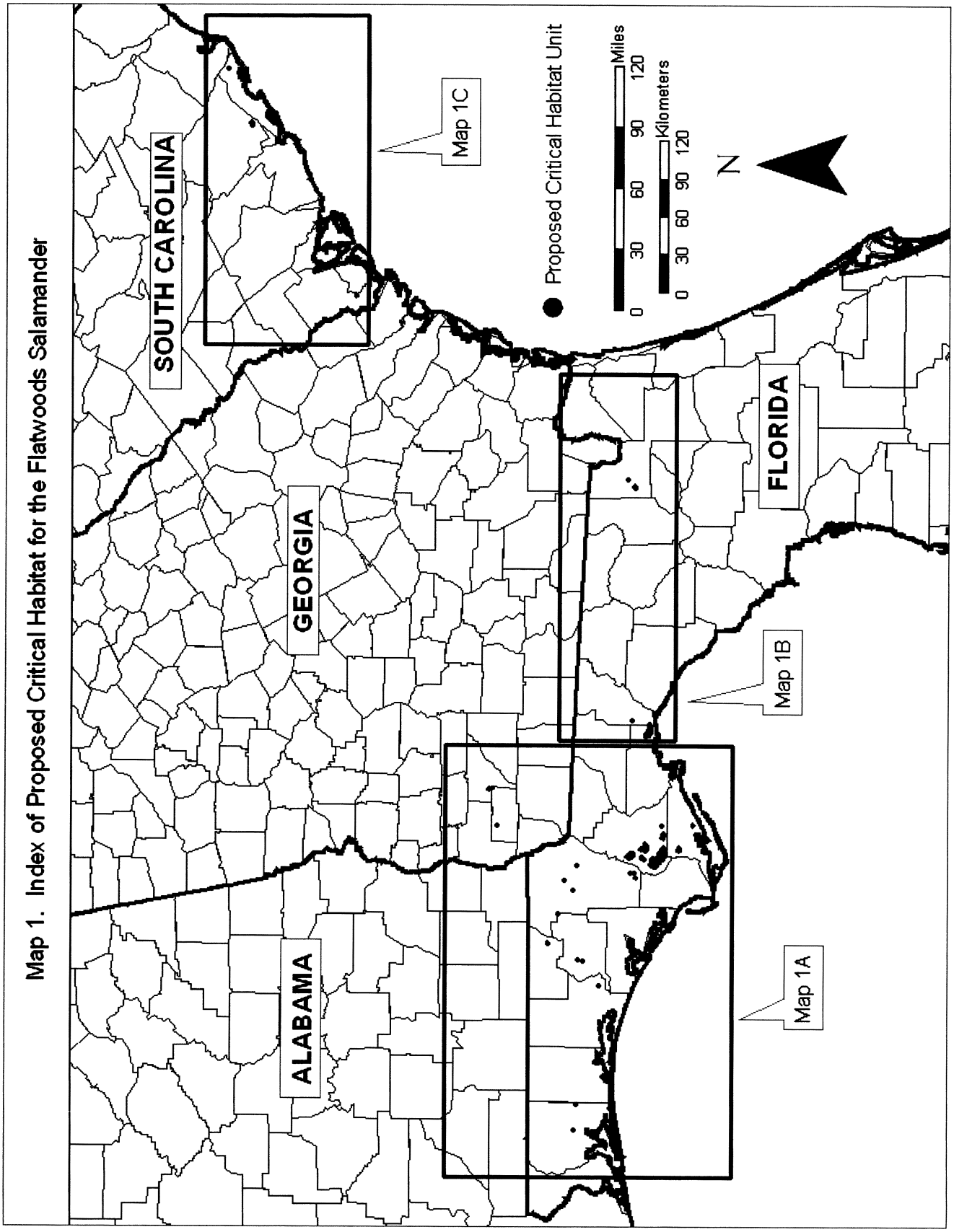
(C) Moist soils as described in PCE 2, and underground structure, such as deep litter cover or burrows that provide shelter for salamanders during seasonal movements.

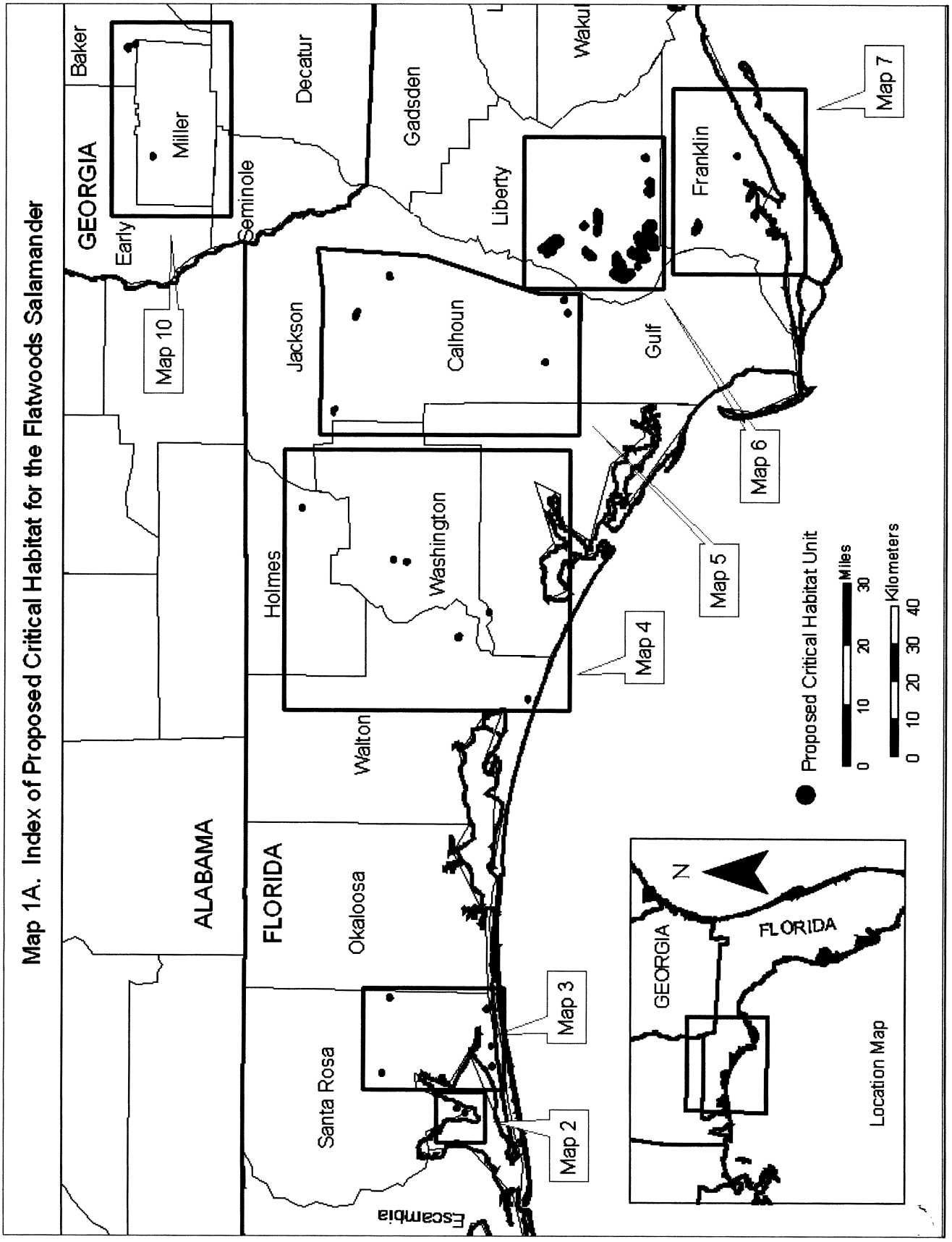
(3) Critical habitat does not include manmade structures existing on the effective date of this rule and not containing one or more of the primary constituent elements, such as buildings, aqueducts, airports, and roads, and the land on which such structures are located.

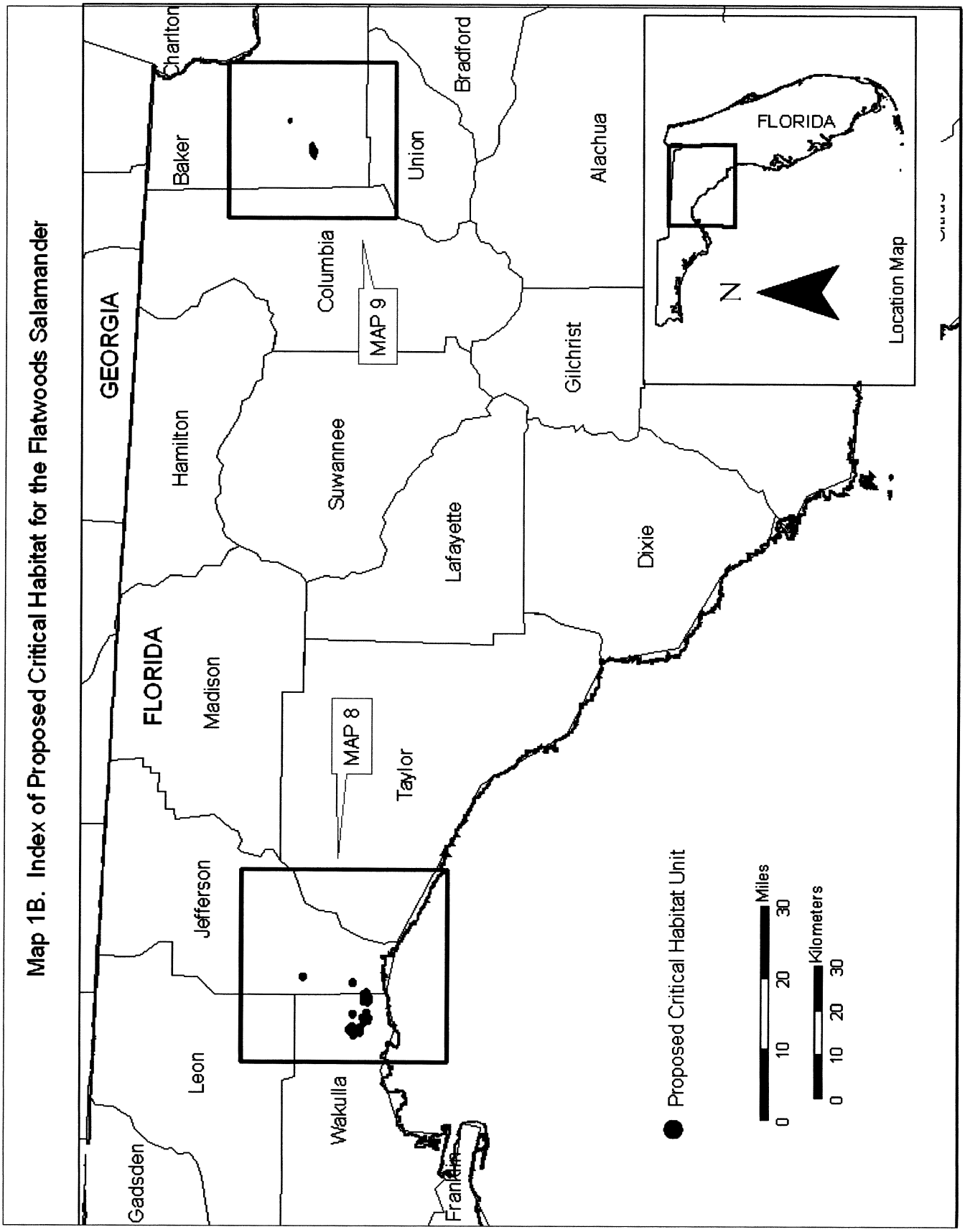
(4) *Critical habitat map units.* Data layers defining map units were created on a base of USGS 7.5′ quadrangles, and critical habitat units were then mapped using Universal Transverse Mercator (UTM) coordinates.

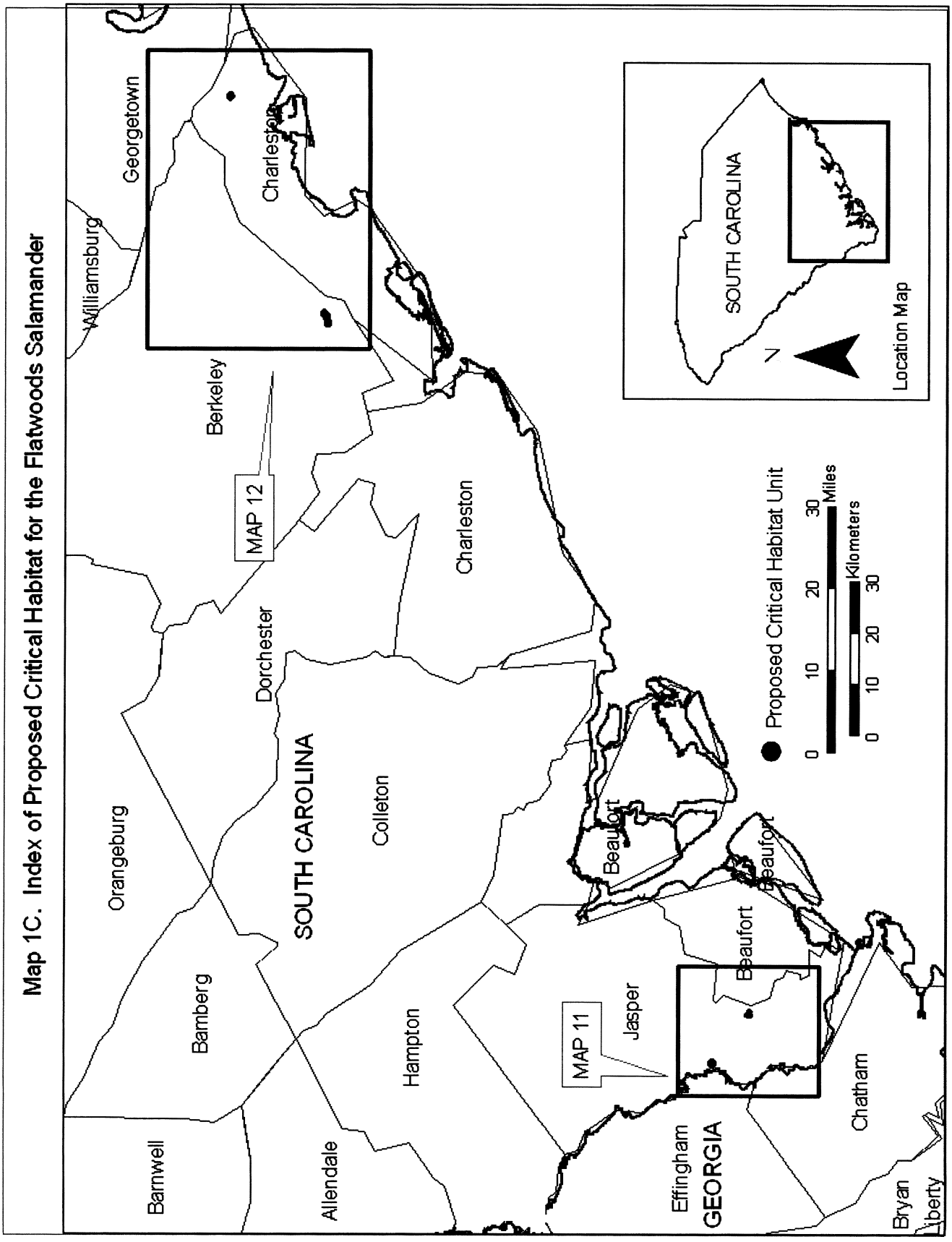
(5) Note: Index maps (Map 1, Map 1A, Map 1B, Map 1C) follow.

BILLING CODE 4310–55–P


Map 1. Index of Proposed Critical Habitat for the Flatwoods Salamander
SOUTH CAROLINA
GEORGIA
ALABAMA
FLORIDA
Map 1C
Map 1B
Map 1A
Proposed Critical Habitat Unit
Miles
0 30 60 90 120
Kilometers
0 30 60 90 120
N


Map 1A. Index of Proposed Critical Habitat for the Flatwoods Salamander
GEORGIA
ALABAMA
FLORIDA
Baker
Early
Miller
Seminole
Decatur
Gadsden
Wakul
Liberty
Franklin
Map 7
Map 10
Jackson
Calhoun
Gulf
Holmes
Washington
Map 6
Map 5
Map 4
Walton
Okaloosa
Santa Rosa
Escambia
Map 3
Map 2
Proposed Critical Habitat Unit
Miles
0 10 20 30
Kilometers
0 10 20 30 40
N
GEORGIA
FLORIDA
Location Map


Map 1B. Index of Proposed Critical Habitat for the Flatwoods Salamander
GEORGIA
FLORIDA
Charlton
Baker
Union
Bradford
Alachua
Columbia
MAP 9
Hamilton
Suwannee
Gilchrist
Lafayette
Dixie
Madison
MAP 8
Taylor
Jefferson
Leon
Wakulla
Gadsden
Franklin
Proposed Critical Habitat Unit
Miles
0 10 20 30
Kilometers
0 10 20 30
FLORIDA
N
Location Map



BILLING CODE 4310–55–C

(6) Florida: Baker, Calhoun, Franklin, Holmes, Jackson, Jefferson, Liberty, Santa Rosa, Wakulla, Walton, Washington Counties, Florida.

(i) Unit FL–1, Subunit A: Santa Rosa County, Florida. From USGS 1:24,000 scale quadrangle map Garcon Point, Florida.

(A) Land bounded by the following UTM Zone 16N, North American Datum of 1983 (NAD83) coordinates (E, N): 492422.51, 3371035.69; 492456.21, 3371479.58; 492471.93, 3371471.14; 492500.45, 3371474.38; 492529.13, 3371475.82; 492557.84, 3371475.46; 492586.47, 3371473.29; 492614.90, 3371469.33; 492643.03, 3371463.60; 492670.75, 3371456.10; 492675.19, 3371454.60; 492697.94, 3371446.89; 492724.50, 3371435.98; 492750.32, 3371423.43; 492775.30, 3371409.28; 492799.35, 3371393.59; 492822.36, 3371376.42; 492844.25, 3371357.84; 492864.93, 3371337.93; 492876.81, 3371324.95; 492884.31, 3371316.75; 492902.33, 3371294.40; 492918.91, 3371270.96; 492933.99, 3371246.52; 492947.50, 3371221.19; 492959.39, 3371195.06; 492969.63, 3371168.23; 492978.15, 3371140.82; 492984.94, 3371112.92; 492989.96, 3371084.65; 492993.20, 3371056.13; 492994.64, 3371027.45; 492994.27, 3370998.74; 492992.11, 3370970.12; 492988.15, 3370941.68; 492982.41, 3370913.55; 492974.92, 3370885.83; 492965.70, 3370858.64; 492954.80, 3370832.08; 492942.25, 3370806.26; 492928.10, 3370781.28; 492912.41, 3370757.23; 492895.24, 3370734.22; 492876.66, 3370712.33; 492856.74, 3370691.66; 492835.57, 3370672.27; 492813.21, 3370654.25; 492789.77, 3370637.67; 492765.34, 3370622.59; 492740.01, 3370609.08; 492713.88, 3370597.19; 492687.05, 3370586.96; 492659.63, 3370578.43; 492631.74, 3370571.64; 492603.47, 3370566.62; 492574.94, 3370563.38; 492546.27, 3370561.94; 492517.56, 3370562.31; 492488.93, 3370564.47; 492460.49, 3370568.43; 492432.36, 3370574.17; 492404.65, 3370581.66; 492377.45, 3370590.88; 492350.90, 3370601.78; 492320.09, 3370617.55; 492291.56, 3370614.31; 492262.89, 3370612.87; 492234.18, 3370613.24; 492205.55, 3370615.41; 492177.11, 3370619.36; 492148.98, 3370625.10; 492121.26, 3370632.59; 492094.07, 3370641.81; 492067.52, 3370652.72; 492041.69, 3370665.27; 492016.71, 3370679.42; 491992.67, 3370695.11; 491969.66, 3370712.28; 491947.77, 3370730.86; 491927.09, 3370750.78; 491907.71, 3370771.96; 491889.69, 3370794.31; 491873.11, 3370817.75; 491858.03, 3370842.18; 491850.39, 3370856.51; 491902.30, 3370927.81; 491965.58, 3371021.19; 492053.40, 3371139.60; 492103.96, 3371211.52; 492141.74, 3371263.97; 492176.40, 3371309.07; 492207.16, 3371350.78; 492243.77, 3371397.26; 492331.54, 3371520.26; 492359.67, 3371514.52; 492387.39, 3371507.03; 492414.58, 3371497.81; 492441.14, 3371486.91; 492456.21, 3371479.58.

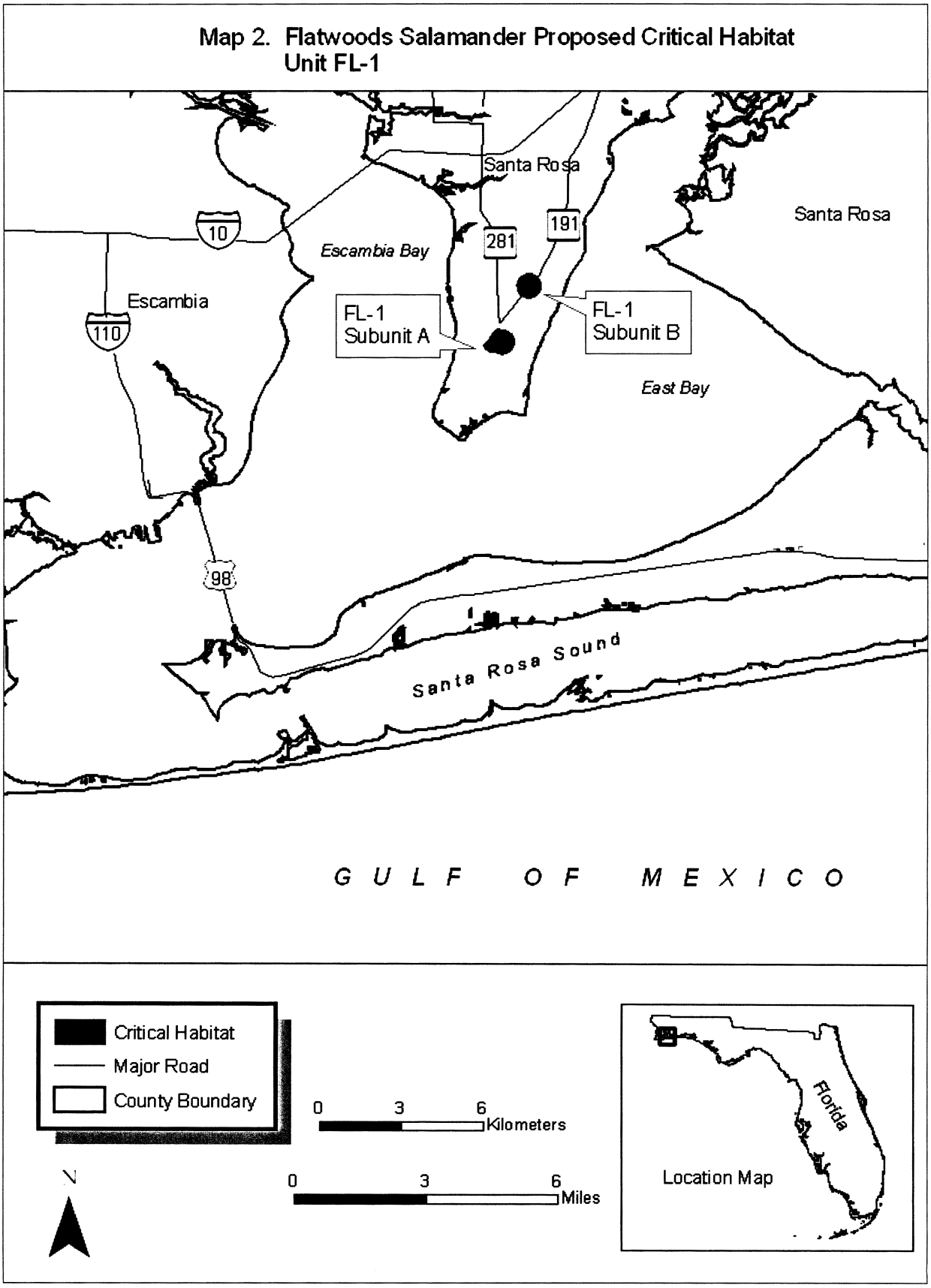
(B) Map depicting Unit FL–1, Subunit A is provided at paragraph (6)(ii)(B) of this entry.

(ii) Unit FL–1, Subunit B: Santa Rosa County, Florida. From USGS 1:24,000 scale quadrangle map Garcon Point, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 493473.94, 3373125.21; 493511.18, 3372669.71; 493482.50, 3372668.27; 493453.79, 3372668.64; 493425.16, 3372670.80; 493396.73, 3372674.76; 493368.60, 3372680.50; 493340.88, 3372687.99; 493313.69, 3372697.21; 493287.13, 3372708.12; 493261.31, 3372720.67; 493236.33, 3372734.82; 493212.29, 3372750.51; 493189.27, 3372767.68; 493167.39, 3372786.26; 493146.71, 3372806.18; 493127.32, 3372827.35; 493109.30, 3372849.71; 493107.12, 3372852.80; 493092.72, 3372873.15; 493077.65, 3372897.58; 493064.14, 3372922.91; 493052.24, 3372949.04; 493042.01, 3372975.87; 493033.49, 3373003.29; 493026.70, 3373031.18; 493021.68, 3373059.45; 493018.45, 3373087.98; 493017.01, 3373116.65; 493017.10, 3373124.25; 493017.37, 3373145.36; 493019.54, 3373173.99; 493023.50, 3373202.43; 493029.23, 3373230.56; 493036.73, 3373258.27; 493045.94, 3373285.46; 493056.85, 3373312.02; 493069.40, 3373337.84; 493083.55, 3373362.82; 493099.24, 3373386.87; 493116.41, 3373409.88; 493134.99, 3373431.77; 493154.91, 3373452.45; 493176.09, 3373471.83; 493198.44, 3373489.85; 493221.88, 3373506.43; 493246.31, 3373521.51; 493271.65, 3373535.02; 493297.78, 3373546.91; 493324.60, 3373557.14; 493352.02, 3373565.66; 493379.92, 3373572.45; 493408.18, 3373577.47; 493436.71, 3373580.71; 493465.39, 3373582.15; 493494.09, 3373581.78; 493522.72, 3373579.62; 493551.16, 3373575.66; 493572.90, 3373571.22; 493579.29, 3373569.92; 493607.01, 3373562.43; 493634.20, 3373553.21; 493660.76, 3373542.30; 493686.58, 3373529.75; 493711.56, 3373515.60; 493735.60, 3373499.91; 493758.61, 3373482.74; 493776.62, 3373467.45; 493780.50, 3373464.16; 493801.18, 3373444.24; 493820.57, 3373423.07; 493838.58, 3373400.71; 493855.16, 3373377.28; 493870.24, 3373352.84; 493883.75, 3373327.51; 493895.64, 3373301.38; 493905.87, 3373274.55; 493914.40, 3373247.13; 493921.18, 3373219.24; 493926.21, 3373190.97; 493929.44, 3373162.44; 493930.88, 3373133.77; 493930.52, 3373105.06; 493928.35, 3373076.43; 493924.39, 3373047.99; 493918.65, 3373019.86; 493911.16, 3372992.15; 493901.94, 3372964.96; 493891.04, 3372938.40; 493878.48, 3372912.58; 493864.33, 3372887.60; 493848.64, 3372863.55; 493831.48, 3372840.54; 493812.90, 3372818.65; 493792.98, 3372797.98; 493771.80, 3372778.59; 493749.45, 3372760.57; 493726.01, 3372743.99; 493701.57, 3372728.92; 493676.24, 3372715.40; 493650.11, 3372703.51; 493623.28, 3372693.28; 493595.87, 3372684.76; 493567.97, 3372677.97; 493539.70, 3372672.95; 493511.18, 3372669.71.

(B) Map of Unit FL–1 (Map 2) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(iii) Unit FL–2, Subunit A: Santa Rosa County, Florida. From USGS 1:24,000 scale quadrangle map Harold, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 501542.29, 3392875.54; 501578.59, 3392419.96; 501549.91, 3392418.58; 501521.21, 3392419.01; 501492.58, 3392421.23; 501464.15, 3392425.25; 501436.03, 3392431.05; 501408.33, 3392438.59; 501381.16, 3392447.87; 501354.63, 3392458.83; 501328.83, 3392471.44; 501303.88, 3392485.64; 501279.87, 3392501.38; 501256.89, 3392518.59; 501235.04, 3392537.22; 501214.40, 3392557.18; 501195.06, 3392578.39; 501177.09, 3392600.78; 501160.55, 3392624.26; 501145.53, 3392648.72; 501132.07, 3392674.08; 501120.23, 3392700.24; 501110.06, 3392727.09; 501101.59, 3392754.52; 501094.86, 3392782.43; 501089.89, 3392810.71; 501086.72, 3392839.24; 501085.34, 3392867.92; 501085.34, 3392868.35; 501085.76, 3392896.63; 501086.36, 3392904.40; 501087.98, 3392925.25; 501092.00, 3392953.68; 501097.80, 3392981.80; 501105.35, 3393009.50; 501114.62, 3393036.67; 501125.58, 3393063.21; 501138.19, 3393089.01; 501152.39, 3393113.96; 501168.13, 3393137.97; 501185.34, 3393160.95; 501203.97, 3393182.80; 501223.93, 3393203.43; 501245.15, 3393222.78; 501267.54, 3393240.75; 501291.01, 3393257.28; 501315.47, 3393272.31; 501340.83, 3393285.76; 501366.99, 3393297.61; 501393.84, 3393307.78; 501421.27, 3393316.25; 501449.18, 3393322.98; 501477.46, 3393327.94; 501506.00, 3393331.12; 501534.67, 3393332.50; 501563.38, 3393332.08; 501585.04, 3393330.39; 501592.00, 3393329.85; 501614.07, 3393326.73; 501620.43, 3393325.83; 501648.55, 3393320.04; 501676.25, 3393312.49; 501703.43, 3393303.22; 501729.96, 3393292.25; 501755.76, 3393279.65; 501780.71, 3393265.45; 501804.72, 3393249.71; 501827.70, 3393232.49; 501849.55, 3393213.87; 501870.18, 3393193.91; 501889.53, 3393172.69; 501907.50, 3393150.30; 501924.03, 3393126.83; 501939.06, 3393102.36; 501952.52, 3393077.00; 501964.36, 3393050.84; 501974.53, 3393024.00; 501983.00, 3392996.56; 501989.73, 3392968.65; 501994.69, 3392940.37; 501997.87, 3392911.84; 501999.25, 3392883.16; 501998.83, 3392854.45; 501996.60, 3392825.83; 501992.58, 3392797.40; 501986.79, 3392769.28; 501979.24, 3392741.58; 501969.97, 3392714.41; 501959.01, 3392687.87; 501946.40, 3392662.08; 501932.20, 3392637.13; 501916.46, 3392613.11; 501899.24, 3392590.14; 501880.62, 3392568.29; 501860.66, 3392547.65; 501839.44, 3392528.31; 501817.05, 3392510.33; 501793.58, 3392493.80; 501769.11, 3392478.78; 501743.75, 3392465.32; 501717.60, 3392453.48; 501690.75, 3392443.30; 501663.31, 3392434.84; 501635.40, 3392428.11; 501607.13, 3392423.14; 501578.59, 3392419.96.

(B) Map depicting Unit FL–2, Subunit A is provided at paragraph (6)(vii)(B) of this entry.

(iv) Unit FL–2, Subunit B: Santa Rosa County, Florida. From USGS 1:24,000 scale quadrangle map Floridale, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 518979.00, 3390846.88; 519015.30, 3390391.30; 518986.62, 3390389.92; 518957.92, 3390390.34; 518929.29, 3390392.56; 518900.86, 3390396.58; 518872.74, 3390402.38; 518845.04, 3390409.93; 518817.87, 3390419.20; 518791.34, 3390430.16; 518765.54, 3390442.77; 518740.59, 3390456.97; 518716.58, 3390472.71; 518693.60, 3390489.92; 518671.75, 3390508.55; 518651.11, 3390528.51; 518631.77, 3390549.73; 518613.80, 3390572.12; 518597.26, 3390595.59; 518582.24, 3390620.06; 518568.78, 3390645.42; 518556.94, 3390671.57; 518546.76, 3390698.42; 518538.30, 3390725.85; 518531.57, 3390753.76; 518526.60, 3390782.04; 518523.42, 3390810.58; 518522.04, 3390839.25; 518522.47, 3390867.96; 518524.69, 3390896.59; 518528.71, 3390925.02; 518534.50, 3390953.14; 518542.05, 3390980.84; 518551.33, 3391008.01; 518562.29, 3391034.54; 518574.89, 3391060.34; 518589.10, 3391085.29; 518604.84, 3391109.30; 518622.05, 3391132.28; 518640.68, 3391154.13; 518660.64, 3391174.77; 518681.85, 3391194.11; 518704.24, 3391212.08; 518727.72, 3391228.62; 518752.18, 3391243.64; 518777.54, 3391257.10; 518803.70, 3391268.94; 518830.55, 3391279.11; 518857.98, 3391287.58; 518885.89, 3391294.31; 518914.17, 3391299.28; 518942.70, 3391302.46; 518971.38, 3391303.84; 519000.09, 3391303.41; 519028.71, 3391301.19; 519057.14, 3391297.17; 519085.26, 3391291.37; 519112.96, 3391283.83; 519140.13, 3391274.55; 519166.67, 3391263.59; 519192.47, 3391250.98; 519217.42, 3391236.78; 519241.43, 3391221.04; 519264.41, 3391203.83; 519286.26, 3391185.20; 519306.90, 3391165.24; 519326.24, 3391144.03; 519344.21, 3391121.64; 519360.74, 3391098.16; 519375.77, 3391073.70; 519389.23, 3391048.34; 519401.07, 3391022.18; 519410.40, 3390997.55; 519411.24, 3390995.33; 519419.71, 3390967.90; 519426.44, 3390939.99; 519431.40, 3390911.71; 519434.58, 3390883.17; 519435.96, 3390854.50; 519435.54, 3390825.79; 519433.31, 3390797.16; 519429.30, 3390768.74; 519423.50, 3390740.62; 519415.95, 3390712.92; 519406.68, 3390685.74; 519395.72, 3390659.21; 519383.11, 3390633.41; 519368.91, 3390608.46; 519353.17, 3390584.45; 519335.95, 3390561.47; 519317.33, 3390539.62; 519297.37, 3390518.98; 519276.15, 3390499.64; 519253.76, 3390481.67; 519230.29, 3390465.14; 519205.82, 3390450.11; 519180.46, 3390436.65; 519154.31, 3390424.81; 519127.46, 3390414.64; 519100.03, 3390406.17; 519072.12, 3390399.44; 519043.84, 3390394.47; 519025.24, 3390392.40; 519015.30, 3390391.30.

(B) Map depicting Unit FL–2, Subunit B is provided at paragraph (6)(vii)(B) of this entry.

(v) Unit FL–3, Subunit A: Santa Rosa County, Florida. From USGS 1:24,000 scale quadrangle map Holley, Florida.

(A) Land bounded by the following UTM Zone 16N NAD83 coordinates (E, N): 503186.07, 3363994.26; 503230.28, 3364372.04; 503258.98, 3364371.15; 503287.56, 3364368.46; 503315.92, 3364363.98; 503343.94, 3364357.72; 503371.51, 3364349.72; 503398.53, 3364340.00; 503424.88, 3364328.61; 503450.47, 3364315.58; 503475.18, 3364300.97; 503498.93, 3364284.84; 503521.62, 3364267.25; 503543.17, 3364248.27; 503563.47, 3364227.98; 503582.47, 3364206.45; 503600.07, 3364183.77; 503616.21, 3364160.02; 503630.84, 3364135.32; 503643.88, 3364109.74; 503655.29, 3364083.39; 503665.02, 3364056.38; 503673.04, 3364028.81; 503679.31, 3364000.80; 503683.81, 3363972.44; 503686.52, 3363943.86; 503687.43, 3363915.16; 503694.97, 3363895.81; 503703.22, 3363883.46; 503713.35, 3363875.12; 503720.86, 3363866.05; 503726.38, 3363856.93; 503733.33, 3363843.23; 503741.24, 3363817.66; 503752.71, 3363781.60; 503757.94, 3363757.28; 503766.29, 3363740.97; 503653.05, 3363741.51; 503643.99, 3363720.56; 503630.97, 3363694.98; 503615.43, 3363669.20; 503614.54, 3363723.63; 503603.42, 3363776.80; 503601.25, 3363799.28; 503594.63, 3363834.14; 503562.99, 3363830.54; 503563.95, 3363824.13; 503558.80, 3363820.38; 503559.45, 3363810.82; 503555.67, 3363800.19; 503543.48, 3363787.42; 503527.74, 3363771.34; 503514.01, 3363772.21; 503464.39, 3363773.02; 503448.84, 3363749.30; 503448.43, 3363557.73; 503320.61, 3363559.24; 503273.41, 3363560.17; 503273.48, 3363572.21; 503279.12, 3363573.41; 503279.02, 3363592.17; 503284.42, 3363598.01; 503277.69, 3363622.31; 503272.10, 3363658.41; 503256.99, 3363658.98; 503220.25, 3363657.15;

503211.45, 3363656.39; 503211.32, 3363632.31; 503198.98, 3363600.14; 503189.64, 3363604.87; 503175.36, 3363660.76; 503174.54, 3363689.45; 503175.29, 3363734.75; 503170.11, 3363757.09; 503161.90, 3363768.12; 503127.36, 3363772.57; 503100.69, 3363791.38; 503033.43, 3363789.75; 502978.95, 3363827.29; 502954.54, 3363827.17; 502938.00, 3363826.77; 502928.94, 3363817.96; 502929.55, 3363684.52; 502929.72, 3363568.90; 502821.78, 3363569.58; 502821.25, 3363591.37; 502814.34, 3363603.10; 502789.73, 3363607.79; 502751.21, 3363612.80; 502704.59, 3363623.55; 502670.46, 3363638.58; 502640.33, 3363787.82; 502630.36, 3363843.74; 502624.75, 3363883.90; 502620.13, 3363937.30; 502612.77, 3363994.60; 502605.85, 3364010.35; 502632.98, 3364029.88; 502667.62, 3364048.56; 502682.22, 3364046.94; 502713.21, 3364052.31; 502771.51, 3364051.09; 502794.67, 3364051.65; 502805.44, 3364083.14; 502816.83, 3364109.49; 502829.86, 3364135.08; 502844.47, 3364159.79; 502860.60, 3364183.55; 502878.19, 3364206.24; 502897.17, 3364227.78; 502917.47, 3364248.09; 502939.00, 3364267.08; 502961.68, 3364284.68; 502985.42, 3364300.83; 503010.13, 3364315.45; 503035.70, 3364328.49; 503062.05, 3364339.90; 503089.06, 3364349.63; 503116.63, 3364357.65; 503144.64, 3364363.92; 503173.00, 3364368.42; 503201.58, 3364371.13; 503230.28, 3364372.04.

(B) Map depicting Unit FL–3, Subunit A is provided at paragraph (6)(vii)(B) of this entry.

(vi) Unit FL–3, Subunit B: Santa Rosa County, Florida. From USGS 1:24,000 scale quadrangle map Holley, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 507847.52, 3364062.79; 508038.94, 3364260.07; 508159.63, 3364258.28; 508179.03, 3364261.58; 508239.92, 3364260.82; 508239.28, 3364132.07; 508237.99, 3363955.72; 508155.42, 3363957.25; 508106.06, 3363958.06; 508068.35, 3363958.68; 508035.07, 3363959.23; 508033.84, 3363843.00; 507952.80, 3363843.73; 507885.20, 3363844.33; 507885.39, 3363854.86; 507685.16, 3363854.79; 507684.91, 3363836.82; 507612.21, 3363835.57; 507612.77, 3363907.18; 507612.91, 3363927.06; 507638.84, 3363927.49; 507639.00, 3363939.65; 507583.60, 3364018.18; 507491.87, 3364016.04; 507493.28, 3364096.00; 507471.91, 3364095.49; 507455.13, 3364095.09; 507457.47, 3364243.37; 507529.64, 3364242.64; 507566.35, 3364269.51; 507830.21, 3364270.70; 507890.36, 3364270.81; 507890.10, 3364262.24; 507967.95, 3364261.12; 508038.94, 3364260.07.

(B) Map depicting Unit FL–3, Subunit B is provided at paragraph (6)(vii)(B) of this entry.

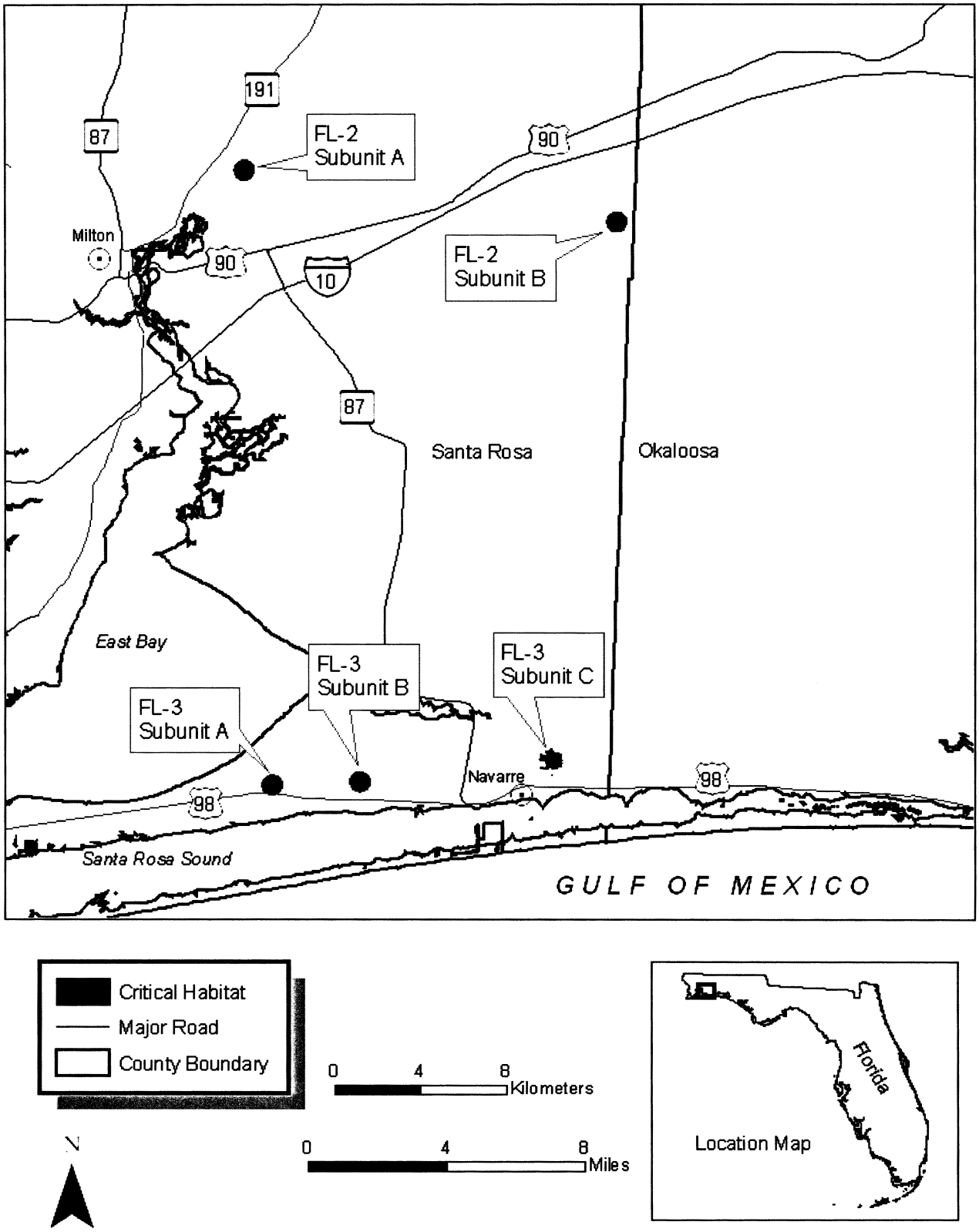
(vii) Unit FL–3, Subunit C: Santa Rosa County, Florida. From USGS 1:24,000 scale quadrangle map Navarre, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 516524.27, 3365506.24; 516614.06, 3365794.38; 516619.13, 3365768.07; 516719.88, 3365817.25; 516735.84, 3365826.31; 516744.39, 3365831.14; 516874.86, 3365831.13; 516879.33, 3365827.24; 516878.63, 3365813.17; 516883.46, 3365805.36; 516900.89, 3365796.54; 516929.88, 3365775.45; 516958.07, 3365759.62; 516979.85, 3365735.70; 516994.78, 3365720.87; 517001.14, 3365704.51; 517008.87, 3365686.20; 517014.29, 3365653.96; 517017.30, 3365612.41; 517019.98, 3365556.98; 517021.74, 3365512.09; 517032.24, 3365489.23; 517042.50, 3365475.60; 517057.95, 3365466.73; 517042.10, 3365402.56; 517026.34, 3365368.94; 517024.79, 3365359.93; 517026.56, 3365353.73; 517031.18, 3365347.99; 517059.28, 3365329.77; 517063.29, 3365325.79; 517065.23, 3365320.52; 517064.86, 3365314.91; 517062.23, 3365309.97; 517055.28, 3365301.88; 517050.92, 3365295.83; 517045.96, 3365285.82; 517043.24, 3365276.08; 517039.76, 3365257.17; 517035.61, 3365234.71; 517031.42, 3365212.25; 517027.22, 3365189.79; 517022.89, 3365166.84; 517018.06, 3365154.36; 517012.70, 3365146.64; 517006.03, 3365140.13; 516993.88, 3365133.00; 516975.29, 3365127.63; 516953.13, 3365121.74; 516930.79, 3365115.89; 516908.44, 3365110.03; 516886.77, 3365104.34; 516863.77, 3365097.23; 516854.53, 3365091.17; 516846.45, 3365082.43; 516843.18, 3365076.97; 516839.62, 3365067.62; 516797.67, 3365057.37; 516752.53, 3365046.60; 516732.46, 3365041.21; 516716.95, 3365036.33; 516701.44, 3365031.45; 516685.89, 3365026.57; 516656.30, 3365017.26; 516606.14, 3364999.47; 516567.77, 3365025.84; 516552.88, 3365039.46; 516543.26, 3365047.07; 516537.86, 3365046.61; 516522.73, 3365045.31; 516507.60, 3365044.01; 516492.46, 3365042.72; 516464.55, 3365040.34; 516459.18, 3365038.47; 516434.23, 3365029.82; 516385.85, 3365014.06; 516347.70, 3365014.77; 516325.35, 3365015.20; 516309.78, 3365015.50; 516282.34, 3365016.10; 516255.12, 3365015.23; 516227.49, 3365017.30; 516200.05, 3365017.89; 516172.65, 3365018.48; 516145.21, 3365019.08; 516117.76, 3365019.68; 516090.36, 3365020.27; 516062.92, 3365020.87; 516033.95, 3365021.50; 515983.68, 3365022.59; 515983.31, 3365034.30; 515983.56, 3365125.46; 515983.59, 3365135.61; 516140.14, 3365133.60; 516177.33, 3365131.61; 516210.21, 3365116.20; 516239.31, 3365112.85; 516252.58, 3365116.07; 516265.20, 3365122.17; 516271.24, 3365136.22; 516273.03, 3365157.69; 516271.59, 3365178.29; 516271.13, 3365197.10; 516272.62, 3365214.12; 516272.74, 3365235.92; 516270.34, 3365253.04; 516263.95, 3365270.73; 516255.22, 3365323.47; 516250.15, 3365370.65; 516169.94, 3365371.07; 516084.15, 3365371.52; 515984.90, 3365372.04; 515985.04, 3365418.80; 515985.64, 3365438.67; 515985.79, 3365487.89; 515985.90, 3365523.80; 515986.24, 3365620.99; 515986.80, 3365640.85; 515987.01, 3365700.00; 515997.92, 3365699.87; 516023.61, 3365699.55; 516049.25, 3365699.22; 516074.90, 3365698.91; 516100.58, 3365698.59; 516125.69, 3365698.29; 516151.91, 3365697.97; 516177.56, 3365697.65; 516203.20, 3365697.34; 516228.88, 3365697.03; 516254.34, 3365696.52; 516312.23, 3365695.66; 516273.14, 3365827.54; 516376.04, 3365829.23; 516409.75, 3365829.34; 516418.20, 3365843.68; 516435.68, 3365873.59; 516451.35, 3365900.75; 516465.80, 3365926.13; 516478.16, 3365947.89; 516498.05, 3365958.21; 516511.93, 3365962.88; 516527.93, 3365968.28; 516543.50, 3365970.28; 516556.18, 3365959.98; 516567.94, 3365950.45; 516576.02, 3365939.68; 516591.33, 3365926.01; 516596.36, 3365899.82; 516599.89, 3365872.92; 516604.92, 3365846.75; 516607.51, 3365830.43; 516608.99, 3365820.69; 516614.06, 3365794.38.

(B) Map of Units FL–2 and FL–3 (Map 3) follows:

BILLING CODE 4310–55–P

Map 3. Flatwoods Salamander Proposed Critical Habitat Units FL-2 and FL-3



BILLING CODE 4310–55–C

(viii) Unit FL–4: Walton County, Florida. From USGS 1:24,000 scale quadrangle map Point Washington, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 587515.35, 3355152.48; 587506.79, 3355609.46; 587535.50, 3355609.10; 587564.13, 3355606.93; 587592.57, 3355602.97; 587620.71, 3355597.23; 587648.42, 3355589.74; 587675.62, 3355580.52; 587702.18, 3355569.61; 587728.00, 3355557.06; 587752.99, 3355542.90; 587777.03, 3355527.21; 587800.05, 3355510.04; 587821.94, 3355491.46; 587842.61, 3355471.54; 587862.00, 3355450.36; 587880.02, 3355428.01; 587896.60, 3355404.56; 587911.68, 3355380.13; 587925.19, 3355354.79; 587937.09, 3355328.66; 587947.32, 3355301.83; 587955.84, 3355274.41; 587962.63, 3355246.51; 587967.65, 3355218.24; 587970.89, 3355189.71; 587972.33, 3355161.03; 587971.96, 3355132.32; 587969.80, 3355103.69; 587965.84, 3355075.25; 587960.10, 3355047.12; 587952.61, 3355019.40; 587943.39, 3354992.21; 587932.48, 3354965.65; 587919.92, 3354939.82; 587905.77, 3354914.84; 587890.08, 3354890.79; 587872.91, 3354867.78; 587854.33, 3354845.89; 587834.41, 3354825.21; 587813.23, 3354805.82; 587790.87, 3354787.80; 587767.43, 3354771.22; 587743.00, 3354756.14; 587717.66, 3354742.63; 587691.53, 3354730.74; 587664.70, 3354720.51; 587637.28, 3354711.98; 587609.38, 3354705.19; 587581.11, 3354700.17; 587552.58, 3354696.94; 587523.90, 3354695.50; 587495.19, 3354695.86; 587466.56, 3354698.03; 587438.12, 3354701.99; 587409.99, 3354707.73; 587382.27, 3354715.22; 587355.07, 3354724.44; 587328.51, 3354735.35; 587302.69, 3354747.90; 587277.71, 3354762.05; 587253.66, 3354777.74; 587230.65, 3354794.91; 587208.76, 3354813.50; 587188.08, 3354833.42; 587168.69, 3354854.60; 587150.67, 3354876.95; 587134.09, 3354900.39; 587119.01, 3354924.83; 587105.50, 3354950.16; 587093.61, 3354976.30; 587083.38, 3355003.13; 587074.85, 3355030.54; 587068.06, 3355058.44; 587063.04, 3355086.72; 587059.80, 3355115.25; 587058.37, 3355143.92; 587058.73, 3355172.63; 587060.90, 3355201.27; 587064.86, 3355229.70; 587070.59, 3355257.84; 587078.09, 3355285.56; 587087.31, 3355312.75; 587098.21, 3355339.31; 587110.77, 3355365.13; 587124.92, 3355390.12; 587140.61, 3355414.16; 587157.78, 3355437.18; 587176.36, 3355459.07; 587196.28, 3355479.75; 587217.46, 3355499.13; 587239.82, 3355517.15; 587263.26, 3355533.74; 587287.70, 3355548.81; 587313.03, 3355562.32; 587339.17, 3355574.22; 587365.99, 3355584.45; 587393.41, 3355592.97; 587421.31, 3355599.76; 587449.58, 3355604.78; 587478.11, 3355608.02; 587506.79, 3355609.46.

(B) Map depicting Unit FL–4 is provided at paragraph (6)(xiii)(B) of this entry.

(ix) Unit FL–5, Subunit A: Walton County, Florida. From USGS 1:24,000 scale quadrangle map Bruce, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 601647.75, 3373576.77; 601493.33, 3374109.03; 601522.04, 3374108.60; 601550.67, 3374106.38; 601579.10, 3374102.36; 601607.23, 3374096.56; 601634.93, 3374089.01; 601662.11, 3374079.74; 601688.65, 3374068.77; 601714.44, 3374056.17; 601739.40, 3374041.96; 601763.41, 3374026.22; 601786.39, 3374009.00; 601808.25, 3373990.37; 601828.89, 3373970.41; 601848.23, 3373949.19; 601866.21, 3373926.80; 601882.74, 3373903.32; 601897.76, 3373878.85; 601911.23, 3373853.49; 601923.07, 3373827.33; 601933.24, 3373800.48; 601941.71, 3373773.04; 601948.44, 3373745.13; 601953.40, 3373716.84; 601956.58, 3373688.31; 601957.96, 3373659.62; 601957.54, 3373630.91; 601955.31, 3373602.29; 601951.29, 3373573.85; 601945.50, 3373545.73; 601937.95, 3373518.03; 601932.81, 3373498.30; 602077.97, 3373412.75; 602148.71, 3373370.38; 602189.04, 3373346.29; 602226.02, 3373324.08; 602242.81, 3373314.59; 602251.57, 3373308.87; 602249.73, 3373302.87; 602248.52, 3373298.22; 602244.07, 3373290.84; 602232.30, 3373285.25; 602226.49, 3373279.16; 602219.36, 3373273.03; 602212.40, 3373260.30; 602203.50, 3373245.54; 602189.89, 3373207.54; 602185.07, 3373188.25; 602182.00, 3373178.92; 602174.92, 3373170.82; 602167.16, 3373163.35; 602161.52, 3373150.66; 602159.44, 3373128.14; 602152.20, 3373073.77; 602147.72, 3373041.28; 602068.26, 3373014.83; 602046.87, 3372996.45; 602018.93, 3372975.27; 601977.95, 3372972.42; 601920.70, 3372984.20; 601893.12, 3373001.35; 601867.36, 3373025.15; 601844.26, 3373048.36; 601816.50, 3373072.78; 601799.99, 3373071.04; 601789.68, 3373059.55; 601764.95, 3373042.41; 601751.13, 3373012.99; 601725.10, 3372994.49; 601700.34, 3373005.10; 601680.55, 3373028.40; 601659.92, 3373058.94; 601630.17, 3373083.30; 601595.72, 3373083.76; 601568.63, 3373081.76; 601562.85, 3373153.48; 601546.32, 3373152.40; 601512.87, 3373139.67; 601482.57, 3373133.62; 601457.54, 3373128.37; 601443.06, 3373124.70; 601441.20, 3373198.67; 601422.79, 3373201.67; 601394.66, 3373207.46; 601366.96, 3373215.01; 601339.78, 3373224.29; 601313.25, 3373235.25; 601287.45, 3373247.86; 601262.49, 3373262.06; 601238.48, 3373277.81; 601215.50, 3373295.02; 601193.65, 3373313.65; 601173.01, 3373333.62; 601153.66, 3373354.84; 601135.69, 3373377.23; 601119.15, 3373400.70; 601104.13, 3373425.17; 601090.67, 3373450.54; 601078.83, 3373476.70; 601068.65, 3373503.55; 601060.18, 3373530.98; 601053.45, 3373558.90; 601048.49, 3373587.18; 601045.31, 3373615.72; 601043.93, 3373644.40; 601044.35, 3373673.11; 601046.58, 3373701.74; 601050.60, 3373730.17; 601056.39, 3373758.30; 601063.95, 3373786.00; 601073.22, 3373813.17; 601084.18, 3373839.71; 601096.79, 3373865.51; 601111.00, 3373890.47; 601126.74, 3373914.48; 601143.96, 3373937.46; 601162.58, 3373959.31; 601182.55, 3373979.95; 601203.77, 3373999.30; 601226.16, 3374017.27; 601249.64, 3374033.81; 601274.11, 3374048.83; 601299.47, 3374062.29; 601325.63, 3374074.13; 601352.48, 3374084.31; 601379.92, 3374092.78; 601407.83, 3374099.51; 601436.11, 3374104.47; 601464.65, 3374107.65; 601493.33, 3374109.03.

(B) Map depicting Unit FL–5, Subunit A is provided at paragraph (6)(xiii)(B) of this entry.

(x) Unit FL–5, Subunit B: Washington County, Florida. From USGS 1:24,000 scale quadrangle map Bruce, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 607444.16, 3365585.74; 607435.59, 3366042.75; 607464.30, 3366042.38; 607492.93, 3366040.22; 607521.37, 3366036.26; 607549.51, 3366030.52; 607577.23, 3366023.03; 607604.42, 3366013.81; 607630.98, 3366002.90; 607656.81, 3365990.35; 607681.79, 3365976.20; 607705.84, 3365960.50; 607728.86, 3365943.33; 607750.75, 3365924.75; 607771.43, 3365904.83; 607790.82, 3365883.65; 607808.84, 3365861.30; 607825.42, 3365837.85; 607840.50, 3365813.42; 607854.02, 3365788.08; 607865.91, 3365761.94; 607876.14, 3365735.11; 607884.67, 3365707.70; 607891.46, 3365679.79; 607896.48, 3365651.52; 607899.72, 3365622.99; 607901.16, 3365594.31; 607900.79, 3365565.60; 607898.63, 3365536.97; 607894.67, 3365508.53; 607888.93, 3365480.39; 607881.44, 3365452.67; 607872.22, 3365425.48; 607861.31, 3365398.91; 607848.76, 3365373.09; 607834.61, 3365348.10; 607818.91, 3365324.06; 607801.74, 3365301.04; 607783.16, 3365279.15; 607763.24, 3365258.47; 607742.06, 3365239.08; 607719.71, 3365221.06;

607696.26, 3365204.48; 607671.83, 3365189.40; 607646.49, 3365175.88; 607620.36, 3365163.99; 607593.53, 3365153.76; 607566.11, 3365145.23; 607538.21, 3365138.44; 607509.93, 3365133.42; 607481.40, 3365130.18; 607452.72, 3365128.74; 607424.01, 3365129.11; 607395.38, 3365131.27; 607366.94, 3365135.23; 607338.80, 3365140.97; 607311.08, 3365148.46; 607283.89, 3365157.68; 607257.33, 3365168.59; 607231.50, 3365181.14; 607206.52, 3365195.29; 607182.47, 3365210.99; 607159.45, 3365228.16; 607137.56, 3365246.74; 607116.88, 3365266.66; 607097.49, 3365287.84; 607079.47, 3365310.19; 607062.89, 3365333.64; 607047.81, 3365358.07; 607034.30, 3365383.41; 607022.40, 3365409.54; 607012.17, 3365436.37; 607003.64, 3365463.79; 606996.85, 3365491.69; 606991.83, 3365519.97; 606988.59, 3365548.50; 606987.15, 3365577.18; 606987.52, 3365605.89; 606989.68, 3365634.52; 606993.64, 3365662.96; 606999.38, 3365691.10; 607006.87, 3365718.82; 607016.09, 3365746.01; 607027.00, 3365772.57; 607039.55, 3365798.40; 607053.70, 3365823.38; 607069.40, 3365847.43; 607086.57, 3365870.45; 607105.15, 3365892.34; 607125.07, 3365913.02; 607146.25, 3365932.41; 607168.60, 3365950.43; 607192.05, 3365967.01; 607216.48, 3365982.09; 607241.82, 3365995.60; 607267.95, 3366007.50; 607294.78, 3366017.73; 607322.20, 3366026.26; 607350.10, 3366033.05; 607378.38, 3366038.07; 607406.91, 3366041.31; 607435.59, 3366042.75.

(B) Map depicting Unit FL–5, Subunit B is provided at paragraph (6)(xiii)(B) of this entry.

(xi) Unit FL–6, Subunit A: Holmes County, Florida. From USGS 1:24,000 scale quadrangle map Bonifay, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 630429.91, 3415116.39; 630422.24, 3415573.43; 630450.95, 3415573.01; 630479.58, 3415570.79; 630508.01, 3415566.77; 630536.14, 3415560.98; 630563.84, 3415553.43; 630591.02, 3415544.16; 630617.56, 3415533.20; 630643.36, 3415520.59; 630668.32, 3415506.39; 630692.34, 3415490.65; 630715.32, 3415473.44; 630737.18, 3415454.81; 630757.82, 3415434.85; 630777.17, 3415413.63; 630795.15, 3415391.24; 630811.68, 3415367.76; 630826.71, 3415343.29; 630840.18, 3415317.93; 630852.02, 3415291.77; 630862.20, 3415264.92; 630870.67, 3415237.48; 630877.41, 3415209.57; 630882.38, 3415181.28; 630885.56, 3415152.74; 630886.94, 3415124.06; 630886.52, 3415095.35; 630884.30, 3415066.72; 630880.28, 3415038.28; 630874.49, 3415010.16; 630866.94, 3414982.45; 630857.67, 3414955.27; 630846.71, 3414928.73; 630834.11, 3414902.93; 630819.91, 3414877.97; 630804.17, 3414853.95; 630786.95, 3414830.97; 630768.32, 3414809.11; 630748.36, 3414788.47; 630727.15, 3414769.12; 630704.75, 3414751.14; 630681.28, 3414734.60; 630656.81, 3414719.57; 630631.45, 3414706.11; 630605.29, 3414694.26; 630578.44, 3414684.08; 630551.00, 3414675.61; 630523.09, 3414668.88; 630494.81, 3414663.91; 630466.27, 3414660.73; 630437.59, 3414659.34; 630408.87, 3414659.76; 630380.24, 3414661.99; 630351.81, 3414666.00; 630323.69, 3414671.79; 630295.98, 3414679.34; 630268.80, 3414688.61; 630242.26, 3414699.58; 630216.46, 3414712.18; 630191.50, 3414726.38; 630167.49, 3414742.12; 630144.51, 3414759.34; 630122.65, 3414777.97; 630102.01, 3414797.93; 630082.66, 3414819.15; 630064.68, 3414841.54; 630048.14, 3414865.01; 630033.11, 3414889.48; 630019.65, 3414914.85; 630007.80, 3414941.01; 629997.63, 3414967.86; 629989.15, 3414995.29; 629982.42, 3415023.21; 629977.45, 3415051.49; 629974.27, 3415080.03; 629972.89, 3415108.72; 629973.31, 3415137.43; 629975.53, 3415166.06; 629979.54, 3415194.49; 629985.34, 3415222.62; 629992.88, 3415250.32; 630002.16, 3415277.50; 630013.12, 3415304.04; 630025.72, 3415329.85; 630039.92, 3415354.81; 630055.66, 3415378.82; 630072.88, 3415401.81; 630091.50, 3415423.66; 630111.46, 3415444.31; 630132.68, 3415463.65; 630155.07, 3415481.63; 630178.55, 3415498.17; 630203.02, 3415513.20; 630228.38, 3415526.67; 630254.54, 3415538.51; 630281.39, 3415548.69; 630308.82, 3415557.16; 630336.74, 3415563.90; 630365.02, 3415568.87; 630393.56, 3415572.05; 630422.24, 3415573.43.

(B) Map depicting Unit FL–6, Subunit A is provided at paragraph (6)(xiii)(B) of this entry.

(xii) Unit FL–6, Subunit B: Washington County, Florida. From USGS 1:24,000 quadrangle map Hinsons Crossroads, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 619116.72, 3390830.14; 619109.08, 3391287.18; 619137.79, 3391286.76; 619166.42, 3391284.53; 619194.85, 3391280.51; 619222.98, 3391274.72; 619250.69, 3391267.17; 619277.86, 3391257.89; 619304.40, 3391246.93; 619330.20, 3391234.32; 619355.16, 3391220.12; 619379.18, 3391204.38; 619402.16, 3391187.16; 619424.01, 3391168.53; 619444.65, 3391148.57; 619464.00, 3391127.35; 619481.98, 3391104.96; 619498.51, 3391081.48; 619513.54, 3391057.01; 619527.00, 3391031.65; 619538.85, 3391005.49; 619549.02, 3390978.64; 619557.49, 3390951.20; 619564.22, 3390923.28; 619569.19, 3390895.00; 619572.37, 3390866.46; 619573.75, 3390837.78; 619573.33, 3390809.06; 619571.10, 3390780.44; 619567.09, 3390752.00; 619561.29, 3390723.88; 619553.74, 3390696.17; 619544.47, 3390669.00; 619533.50, 3390642.45; 619520.90, 3390616.65; 619506.69, 3390591.70; 619490.95, 3390567.68; 619473.73, 3390544.70; 619455.11, 3390522.85; 619435.14, 3390502.20; 619413.92, 3390482.86; 619391.53, 3390464.88; 619368.05, 3390448.35; 619343.58, 3390433.32; 619318.22, 3390419.85; 619292.06, 3390408.01; 619265.21, 3390397.83; 619237.77, 3390389.36; 619209.85, 3390382.63; 619181.57, 3390377.67; 619153.03, 3390374.49; 619124.35, 3390373.11; 619095.64, 3390373.53; 619067.01, 3390375.75; 619038.57, 3390379.77; 619010.45, 3390385.57; 618982.74, 3390393.12; 618955.57, 3390402.39; 618929.03, 3390413.35; 618903.23, 3390425.96; 618878.27, 3390440.16; 618854.25, 3390455.91; 618831.27, 3390473.12; 618809.42, 3390491.75; 618788.78, 3390511.71; 618769.43, 3390532.93; 618751.45, 3390555.33; 618734.92, 3390578.80; 618719.89, 3390603.27; 618706.43, 3390628.64; 618694.58, 3390654.80; 618684.41, 3390681.65; 618675.94, 3390709.09; 618669.20, 3390737.00; 618664.24, 3390765.29; 618661.06, 3390793.83; 618659.68, 3390822.51; 618660.10, 3390851.22; 618662.33, 3390879.85; 618666.34, 3390908.28; 618672.14, 3390936.41; 618679.69, 3390964.11; 618688.96, 3390991.29; 618699.93, 3391017.83; 618712.53, 3391043.63; 618726.74, 3391068.59; 618742.48, 3391092.60; 618759.70, 3391115.59; 618778.32, 3391137.44; 618798.29, 3391158.08; 618819.51, 3391177.43; 618841.90, 3391195.40; 618865.38, 3391211.94; 618889.85, 3391226.97; 618915.21, 3391240.43; 618941.37, 3391252.27; 618968.22, 3391262.45; 618995.66, 3391270.92; 619023.57, 3391277.65; 619051.86, 3391282.62; 619080.40, 3391285.80; 619109.08, 3391287.18.

(B) Map depicting Unit FL–6, Subunit B is provided at paragraph (6)(xiii)(B) of this entry.

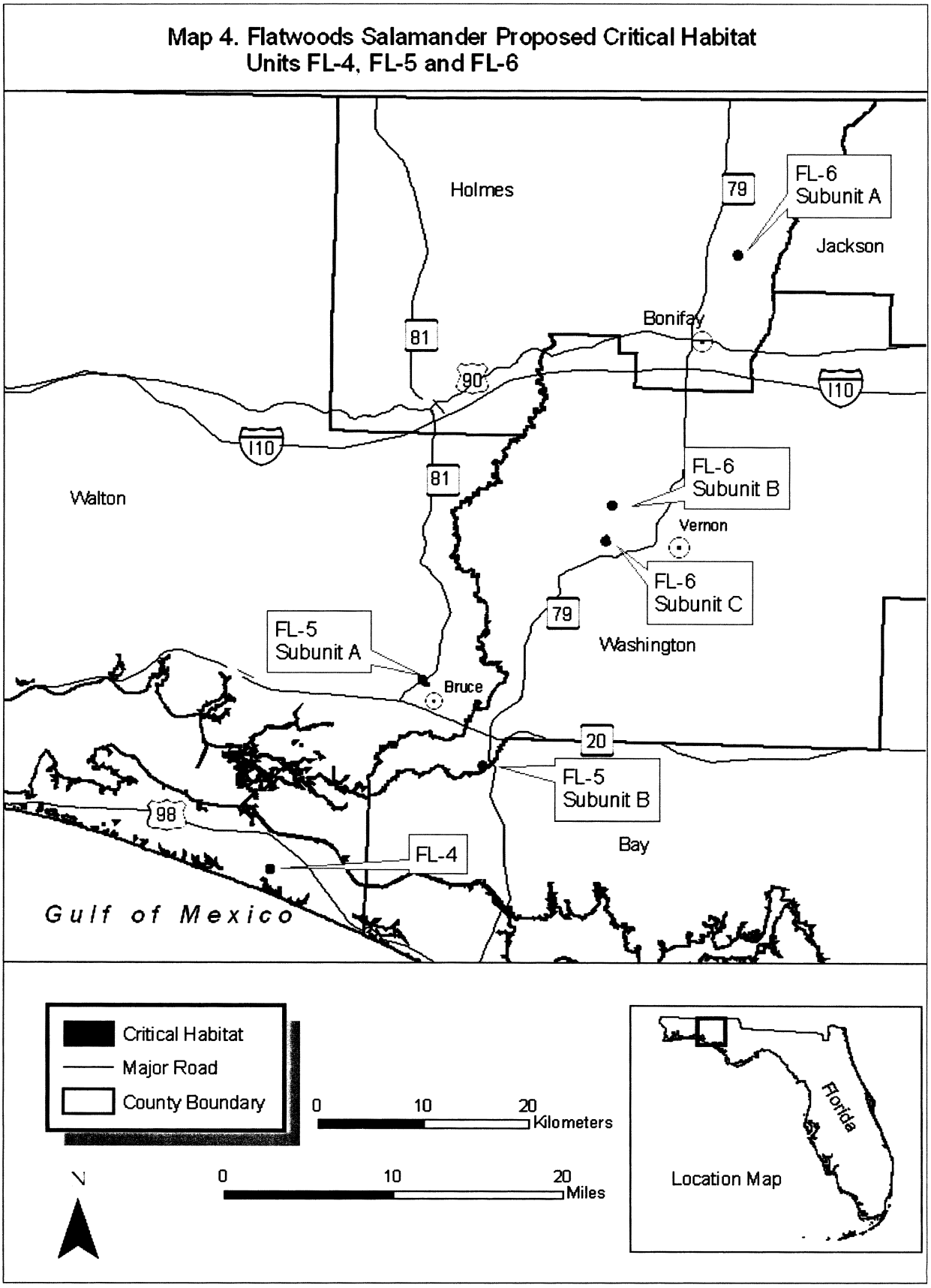
(xiii) Unit FL–6, Subunit C: Washington County, Florida. From USGS 1:24,000 quadrangle map Millers Ferry, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 618603.41, 3387429.45; 618699.68, 3387966.18; 618708.26, 3387969.49; 618723.71, 3387970.50; 618726.33, 3387965.00; 618725.78, 3387937.80; 618728.76, 3387918.09; 618732.40,

3387896.55; 618738.22, 3387886.81; 618755.97, 3387870.57; 618776.73, 3387857.50; 618803.06, 3387844.57; 618839.32, 3387830.66; 618872.53, 3387815.43; 618904.43, 3387802.63; 618918.85, 3387795.58; 618926.43, 3387789.59; 618930.96, 3387781.67; 618931.79, 3387748.94; 618930.13, 3387716.76; 618932.43, 3387674.79; 618932.53, 3387646.37; 618934.03, 3387611.79; 618948.87, 3387588.07; 618962.97, 3387569.26; 618980.28, 3387545.60; 618995.92, 3387515.09; 619007.01, 3387492.50; 619018.24, 3387464.98; 619025.65, 3387441.06; 619035.64, 3387413.50; 619042.95, 3387393.91; 619052.14, 3387373.13; 619059.11, 3387348.17; 619055.09, 3387319.74; 619049.30, 3387291.61; 619041.75, 3387263.91; 619032.48, 3387236.73; 619021.51, 3387210.19; 619008.91, 3387184.39; 618994.70, 3387159.43; 618978.96, 3387135.42; 618961.74, 3387112.44; 618943.12, 3387090.58; 618923.15, 3387069.94; 618901.93, 3387050.59; 618879.54, 3387032.62; 618856.06, 3387016.08; 618831.60, 3387001.05; 618806.23, 3386987.59; 618780.07, 3386975.75; 618753.22, 3386965.57; 618725.78, 3386957.10; 618697.87, 3386950.37; 618669.59, 3386945.41; 618641.05, 3386942.23; 618612.37, 3386940.85; 618583.65, 3386941.27; 618555.02, 3386943.49; 618526.59, 3386947.51; 618498.47, 3386953.31; 618470.76, 3386960.86; 618443.59, 3386970.13; 618417.05, 3386981.10; 618391.25, 3386993.70; 618366.29, 3387007.91; 618342.28, 3387023.65; 618319.30, 3387040.87; 618297.44, 3387059.49; 618276.80, 3387079.46; 618257.46, 3387100.68; 618239.48, 3387123.07; 618222.95, 3387146.55; 618207.92, 3387171.02; 618194.46, 3387196.38; 618182.61, 3387222.54; 618172.44, 3387249.39; 618163.97, 3387276.83; 618157.24, 3387304.75; 618152.27, 3387333.03; 618149.09, 3387361.57; 618147.71, 3387390.25; 618148.13, 3387418.97; 618150.36, 3387447.59; 618154.38, 3387476.03; 618160.17, 3387504.15; 618167.72, 3387531.86; 618177.00, 3387559.03; 618187.96, 3387585.58; 618200.57, 3387611.37; 618214.77, 3387636.33; 618230.51, 3387660.35; 618247.73, 3387683.33; 618266.36, 3387705.18; 618286.32, 3387725.82; 618307.54, 3387745.17; 618329.93, 3387763.15; 618353.41, 3387779.68; 618377.88, 3387794.71; 618403.24, 3387808.17; 618429.40, 3387820.02; 618456.25, 3387830.19; 618483.69, 3387838.66; 618511.60, 3387845.39; 618552.33, 3387867.90; 618598.24, 3387912.94; 618635.11, 3387948.48; 618647.90, 3387956.84; 618666.90, 3387964.74; 618689.14, 3387966.53; 618699.68, 3387966.18.

(B) Map of Units FL–4, FL–5, and FL–6 (Map 4) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(xiv) Unit FL–7, Subunit A: Jackson County, Florida. From USGS 1:24,000 quadrangle map Cottondale West, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 652835.14, 3407158.35; 652861.06, 3407462.20; 652926.44, 3407468.50; 652983.24, 3407473.93; 653013.53, 3407480.65; 653102.73, 3407487.57; 653220.85, 3407503.16; 653213.54, 3407478.51; 653208.06, 3407459.86; 653203.98, 3407437.94; 653198.50, 3407419.28; 653188.65, 3407390.60; 653180.13, 3407361.30; 653173.97, 3407343.29; 653172.95, 3407331.36; 653175.84, 3407322.18; 653182.86, 3407306.49; 653196.77, 3407280.41; 653209.97, 3407256.28; 653225.16, 3407232.21; 653240.92, 3407211.46; 653254.75, 3407188.68; 653269.91, 3407165.27; 653285.84, 3407137.91; 653302.44, 3407110.57; 653319.71, 3407082.58; 653334.40, 3407051.89; 653354.94, 3407025.31; 653370.79, 3407001.25; 653387.81, 3406983.18; 653410.30, 3406957.97; 653436.67, 3406936.83; 653465.05, 3406914.42; 653479.59, 3406894.17; 653572.80, 3406719.38; 653636.15, 3406632.42; 653038.02, 3406583.61; 653039.18, 3406691.92; 653028.57, 3406721.18; 653006.55, 3406734.40; 652986.39, 3406751.60; 652981.54, 3406786.91; 652980.43, 3406830.19; 652979.67, 3406859.70; 652965.63, 3406869.19; 652941.78, 3406876.45; 652916.11, 3406877.76; 652884.59, 3406876.95; 652859.18, 3406868.42; 652831.89, 3406855.91; 652800.52, 3406849.20; 652767.02, 3406848.34; 652747.17, 3406853.74; 652732.87, 3406873.06; 652724.33, 3406898.44; 652743.83, 3406906.81; 652763.39, 3406913.22; 652758.74, 3406940.66; 652753.99, 3406972.04; 652760.86, 3407011.59; 652764.09, 3407039.23; 652761.57, 3407060.82; 652749.49, 3407070.36; 652725.65, 3407077.62; 652709.68, 3407085.09; 652701.20, 3407108.49; 652698.57, 3407134.02; 652696.09, 3407153.64; 652674.12, 3407164.89; 652656.23, 3407170.34; 652642.04, 3407185.72; 652620.14, 3407175.05; 652594.55, 3407165.80; 652583.46, 3407159.57; 652578.33, 3407152.82; 652573.28, 3407143.44; 652569.58, 3407132.77; 652565.24, 3407121.42; 652555.67, 3407107.29; 652545.45, 3407092.48; 652535.85, 3407079.68; 652526.16, 3407070.17; 652517.58, 3407069.29; 652507.43, 3407077.62; 652495.88, 3407089.23; 652486.90, 3407103.54; 652483.22, 3407117.99; 652480.80, 3407135.12; 652478.24, 3407157.53; 652480.37, 3407177.42; 652480.51, 3407197.92; 652475.78, 3407201.76; 652465.72, 3407206.79; 652458.25, 3407213.87; 652449.33, 3407226.21; 652438.04, 3407227.24; 652428.85, 3407224.36; 652417.75, 3407218.12; 652411.37, 3407208.70; 652407.64, 3407199.35; 652404.20, 3407178.77; 652402.01, 3407160.86; 652397.94, 3407138.94; 652395.00, 3407124.32; 652386.76, 3407110.23; 652373.71, 3407102.62; 652360.44, 3407103.60; 652343.53, 3407117.72; 652333.43, 3407124.07; 652322.15, 3407125.10; 652314.14, 3407127.54; 652305.95, 3407137.25; 652296.58, 3407140.97; 652287.20, 3407145.36; 652274.56, 3407147.68; 652268.06, 3407142.89; 652261.53, 3407139.41; 652255.03, 3407134.62; 652248.60, 3407127.18; 652243.50, 3407119.78; 652238.44, 3407110.39; 652237.44, 3407097.81; 652241.12, 3407083.36; 652242.82, 3407068.86; 652245.24, 3407051.73; 652244.24, 3407039.14; 652236.01, 3407024.39; 652221.05, 3407014.09; 652203.25, 3407010.99; 652190.56, 3407015.29; 652182.47, 3407021.03; 652175.50, 3407034.74; 652172.53, 3407047.22; 652173.53, 3407059.81; 652170.75, 3407065.03; 652164.64, 3407070.82; 652155.26, 3407075.21; 652145.32, 3407075.61; 652133.44, 3407073.99; 652119.02, 3407068.33; 652106.60, 3407062.06; 652100.97, 3407049.36; 652097.32, 3407036.70; 652077.38, 3407039.50; 652052.56, 3407052.08; 652042.52, 3407056.45; 652034.12, 3407074.09; 652048.98, 3407088.35; 652061.11, 3407105.85; 652085.32, 3407117.05; 652106.16, 3407130.80; 652105.19, 3407142.68; 652106.02, 3407161.87; 652112.91, 3407177.25; 652135.31, 3407181.79; 652182.83, 3407187.64; 652215.86, 3407190.47; 652257.41, 3407196.82; 652295.04, 3407201.09; 652314.35, 3407205.65; 652308.49, 3407218.63; 652292.89, 3407233.43; 652266.52, 3407254.57; 652238.70, 3407280.96; 652220.19, 3407305.61; 652212.44, 3407323.92; 652210.01, 3407341.05; 652209.77, 3407350.30; 652210.11, 3407362.87; 652213.26, 3407375.54; 652299.80, 3407383.66; 652374.80, 3407395.52; 652472.45, 3407408.60; 652594.12, 3407426.43; 652663.66, 3407439.95; 652719.80, 3407445.35; 652756.73, 3407450.93; 652822.76, 3407457.91; 652861.06, 3407462.20.

(B) Map depicting Unit FL–7, Subunit A is provided at paragraph (6)(xix)(B) of this entry.

(xv) Unit FL–7, Subunit B: Jackson County, Florida. From USGS 1:24,000 scale quadrangle map Oakdale, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 674995.60, 3401690.28; 673875.85, 3402158.93; 674341.17, 3402164.28; 674675.84, 3402154.41; 674910.48, 3402162.13; 675034.90, 3402087.99; 675083.93, 3402061.49; 675233.86, 3401974.12; 675401.89, 3401877.97; 675485.18, 3401832.51; 675531.62, 3401803.30; 675583.62, 3401764.31; 675781.28, 3401546.61; 675851.43, 3401471.73; 675878.14, 3401437.38; 675932.68, 3401376.64; 675959.66, 3401349.36; 675970.87, 3401333.99; 675981.97, 3401314.44; 676115.36, 3401200.87; 676086.59, 3401161.12; 676052.69, 3401114.62; 676041.90, 3401096.49; 676016.12, 3401069.38; 675998.03, 3401051.73; 675964.86, 3401028.39; 675934.93, 3401007.79; 675918.10, 3400992.81; 675908.38, 3400984.62; 675897.49, 3400970.46; 675889.97, 3400953.73; 675879.31, 3400879.41; 675844.53, 3400893.06; 675327.40, 3401121.69; 674861.39, 3401328.81; 674684.03, 3401401.59; 674391.31, 3401530.89; 673876.29, 3401753.54; 673877.85, 3402081.41; 673875.85, 3402158.93.

(B) Map depicting Unit FL–7, Subunit B is provided at paragraph (6)(xix)(B) of this entry.

(xvi) Unit FL–7, Subunit C: Jackson County, Florida. From USGS 1:24,000 scale quadrangle map Cypress, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 683829.73, 3393074.70; 684023.32, 3393574.80; 684052.04, 3393574.38; 684080.68, 3393572.16; 684109.12, 3393568.14; 684137.25, 3393562.34; 684164.96, 3393554.79; 684192.15, 3393545.52; 684218.69, 3393534.55; 684244.50, 3393521.94; 684269.46, 3393507.74; 684293.49, 3393491.99; 684316.47, 3393474.77; 684338.33, 3393456.14; 684358.98, 3393436.17; 684378.33, 3393414.95; 684396.32, 3393392.55; 684412.86, 3393369.07; 684427.89, 3393344.60; 684441.36, 3393319.23; 684453.20, 3393293.06; 684463.38, 3393266.20; 684471.86, 3393238.76; 684478.59, 3393210.84; 684483.56, 3393182.55; 684486.74, 3393154.00; 684488.12, 3393125.31; 684487.70, 3393096.59; 684485.48, 3393067.96; 684481.46, 3393039.52; 684475.66, 3393011.38; 684468.11, 3392983.67; 684458.84, 3392956.49; 684447.87, 3392929.94; 684435.27, 3392904.13; 684421.06, 3392879.17; 684405.32, 3392855.15; 684388.09, 3392832.16; 684369.46, 3392810.30; 684349.50, 3392789.65; 684328.27, 3392770.30; 684305.87, 3392752.32; 684282.39, 3392735.78; 684257.92, 3392720.75; 684232.55, 3392707.28; 684206.38, 3392695.43; 684179.52, 3392685.25; 684152.08, 3392676.78; 684124.16, 3392670.04; 684095.87, 3392665.08; 684067.32, 3392661.89; 684038.63, 3392660.51; 684009.91, 3392660.93; 683981.28, 3392663.16; 683966.02, 3392656.75; 683947.05,

3392647.66; 683923.43, 3392639.12; 683903.85, 3392628.04; 683886.86, 3392619.00; 683867.12, 3392613.87; 683843.82, 3392618.55; 683819.20, 3392623.21; 683789.11, 3392634.33; 683770.46, 3392638.47; 683744.30, 3392651.02; 683720.12, 3392664.28; 683706.10, 3392668.55; 683685.47, 3392672.64; 683658.43, 3392667.97; 683632.03, 3392664.65; 683606.95, 3392661.36; 683585.89, 3392656.18; 683542.11, 3392633.24; 683512.11, 3392615.27; 683479.46, 3392597.24; 683450.00, 3392583.92; 683423.91, 3392568.70; 683385.42, 3392545.89; 683371.14, 3392534.94; 683348.35, 3392519.81; 683332.69, 3392510.81; 683315.62, 3392505.08; 683294.59, 3392498.59; 683272.28, 3392490.74; 683253.15, 3392487.60; 683203.24, 3392496.89; 683207.64, 3392582.95; 683209.99, 3392696.72; 683212.45, 3392729.84; 683218.34, 3392783.54; 683218.66, 3392796.77; 683214.15, 3392817.81; 683194.50, 3392886.06; 683182.83, 3392927.40; 683174.68, 3392960.91; 683171.34, 3392987.93; 683171.38, 3393011.73; 683174.93, 3393028.35; 683181.19, 3393042.39; 683179.64, 3393050.95; 683179.13, 3393070.77; 683177.70, 3393100.48; 683176.50, 3393146.73; 683179.16, 3393171.92; 683183.14, 3393197.15; 683188.54, 3393219.10; 683190.03, 3393238.31; 683189.67, 3393252.19; 683214.05, 3393256.78; 683227.92, 3393258.46; 683266.03, 3393270.03; 683309.50, 3393279.08; 683347.79, 3393284.04; 683367.66, 3393283.89; 683389.34, 3393286.52; 683469.22, 3393300.40; 683524.08, 3393304.46; 683580.93, 3393308.57; 683593.71, 3393300.97; 683608.59, 3393292.07; 683614.08, 3393305.37; 683626.69, 3393331.18; 683640.90, 3393356.14; 683656.64, 3393380.17; 683673.86, 3393403.15; 683692.49, 3393425.01; 683712.46, 3393445.66; 683733.68, 3393465.01; 683756.08, 3393482.99; 683779.56, 3393499.53; 683804.04, 3393514.57; 683829.41, 3393528.03; 683855.57, 3393539.88; 683882.43, 3393550.06; 683909.88, 3393558.54; 683937.80, 3393565.27; 683966.09, 3393570.24; 683994.63, 3393573.42; 684023.32, 3393574.80.

(B) Map depicting Unit FL–7, Subunit C is provided at paragraph (6)(xix)(B) of this entry.

(xvii) Unit FL–8, Subunit A: Calhoun County, Florida. From USGS 1:24,000 scale quadrangle map Broad Branch, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 664818.75, 3351879.40; 664810.75, 3352336.50; 664839.47, 3352336.10; 664868.11, 3352333.90; 664896.55, 3352329.90; 664924.68, 3352324.13; 664952.40, 3352316.60; 664979.59, 3352307.34; 665006.14, 3352296.40; 665031.95, 3352283.81; 665056.93, 3352269.63; 665080.96, 3352253.90; 665103.96, 3352236.70; 665125.83, 3352218.08; 665146.49, 3352198.13; 665165.86, 3352176.93; 665183.85, 3352154.54; 665200.41, 3352131.08; 665215.46, 3352106.61; 665228.94, 3352081.26; 665240.81, 3352055.10; 665251.01, 3352028.25; 665259.50, 3352000.82; 665266.26, 3351972.90; 665271.25, 3351944.62; 665274.45, 3351916.08; 665275.85, 3351887.39; 665275.45, 3351858.67; 665273.25, 3351830.04; 665269.26, 3351801.60; 665263.48, 3351773.46; 665255.95, 3351745.75; 665246.70, 3351718.56; 665235.75, 3351692.00; 665223.16, 3351666.19; 665208.98, 3351641.22; 665193.25, 3351617.18; 665176.05, 3351594.19; 665157.44, 3351572.31; 665137.49, 3351551.65; 665116.28, 3351532.29; 665093.90, 3351514.29; 665070.43, 3351497.73; 665045.97, 3351482.68; 665020.61, 3351469.20; 664994.45, 3351457.33; 664967.61, 3351447.13; 664940.17, 3351438.64; 664912.26, 3351431.89; 664883.97, 3351426.90; 664855.43, 3351423.70; 664826.74, 3351422.29; 664798.03, 3351422.69; 664769.39, 3351424.89; 664740.95, 3351428.89; 664712.82, 3351434.66; 664685.10, 3351442.19; 664657.91, 3351451.45; 664631.36, 3351462.39; 664605.54, 3351474.98; 664580.57, 3351489.17; 664556.54, 3351504.89; 664533.54, 3351522.09; 664511.67, 3351540.71; 664491.01, 3351560.66; 664471.64, 3351581.87; 664453.64, 3351604.25; 664437.09, 3351627.72; 664422.04, 3351652.18; 664408.55, 3351677.53; 664396.69, 3351703.69; 664386.49, 3351730.54; 664377.99, 3351757.97; 664371.24, 3351785.89; 664366.25, 3351814.17; 664363.05, 3351842.71; 664361.65, 3351871.40; 664362.05, 3351900.12; 664364.25, 3351928.75; 664368.24, 3351957.19; 664374.02, 3351985.33; 664381.55, 3352013.04; 664390.80, 3352040.23; 664401.74, 3352066.79; 664414.33, 3352092.60; 664428.52, 3352117.57; 664444.24, 3352141.60; 664461.45, 3352164.60; 664480.06, 3352186.47; 664500.01, 3352207.14; 664521.22, 3352226.50; 664543.60, 3352244.50; 664567.07, 3352261.06; 664591.53, 3352276.11; 664616.89, 3352289.59; 664643.04, 3352301.46; 664669.89, 3352311.66; 664697.33, 3352320.15; 664725.24, 3352326.90; 664753.53, 3352331.89; 664782.07, 3352335.09; 664810.75, 3352336.50.

(B) Map depicting Unit FL–8, Subunit A is provided at paragraph (6)(xix)(B) of this entry.

(xviii) Unit FL–8, Subunit B: Calhoun County, Florida. From USGS 1:24,000 scale quadrangle map Dead Lake, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 676286.61, 3346166.45; 676279.05, 3346623.58; 676307.77, 3346623.16; 676336.40, 3346620.93; 676364.84, 3346616.90; 676392.97, 3346611.10; 676420.68, 3346603.55; 676447.86, 3346594.27; 676474.40, 3346583.30; 676500.21, 3346570.68; 676525.17, 3346556.47; 676549.19, 3346540.72; 676572.17, 3346523.50; 676594.02, 3346504.86; 676614.67, 3346484.89; 676634.01, 3346463.66; 676651.99, 3346441.26; 676668.53, 3346417.78; 676683.55, 3346393.30; 676697.01, 3346367.93; 676708.85, 3346341.76; 676719.03, 3346314.90; 676727.50, 3346287.46; 676734.23, 3346259.54; 676739.19, 3346231.25; 676742.36, 3346202.70; 676743.74, 3346174.01; 676743.31, 3346145.29; 676741.08, 3346116.66; 676737.06, 3346088.22; 676731.26, 3346060.09; 676723.70, 3346032.38; 676714.42, 3346005.20; 676703.45, 3345978.66; 676690.84, 3345952.85; 676676.63, 3345927.89; 676660.88, 3345903.87; 676643.65, 3345880.89; 676625.02, 3345859.04; 676605.05, 3345838.39; 676583.82, 3345819.05; 676561.42, 3345801.07; 676537.93, 3345784.54; 676513.46, 3345769.51; 676488.08, 3345756.05; 676461.92, 3345744.21; 676435.06, 3345734.03; 676407.61, 3345725.56; 676379.69, 3345718.84; 676351.40, 3345713.87; 676322.86, 3345710.70; 676294.17, 3345709.32; 676265.45, 3345709.75; 676236.81, 3345711.98; 676208.37, 3345716.00; 676180.25, 3345721.80; 676152.54, 3345729.36; 676125.35, 3345738.64; 676098.81, 3345749.61; 676073.01, 3345762.22; 676048.05, 3345776.43; 676024.03, 3345792.18; 676001.05, 3345809.41; 675979.19, 3345828.04; 675958.55, 3345848.02; 675939.20, 3345869.24; 675921.22, 3345891.64; 675904.69, 3345915.13; 675889.66, 3345939.60; 675876.20, 3345964.98; 675864.36, 3345991.14; 675854.19, 3346018.00; 675845.72, 3346045.45; 675838.99, 3346073.37; 675834.03, 3346101.66; 675830.85, 3346130.21; 675829.48, 3346158.89; 675829.90, 3346187.61; 675832.13, 3346216.25; 675836.16, 3346244.69; 675841.96, 3346272.81; 675849.51, 3346300.52; 675858.79, 3346327.71; 675869.76, 3346354.25; 675882.38, 3346380.05; 675896.59, 3346405.01; 675912.34, 3346429.03; 675929.56, 3346452.01; 675948.20, 3346473.87; 675968.17, 3346494.51; 675989.40, 3346513.86; 676011.80, 3346531.84; 676035.28, 3346548.37; 676059.76, 3346563.40; 676085.13, 3346576.86; 676111.30, 3346588.70;

676138.16, 3346598.87; 676165.60, 3346607.34; 676193.52, 3346614.07; 676221.81, 3346619.03; 676250.36, 3346622.21; 676279.05, 3346623.58.

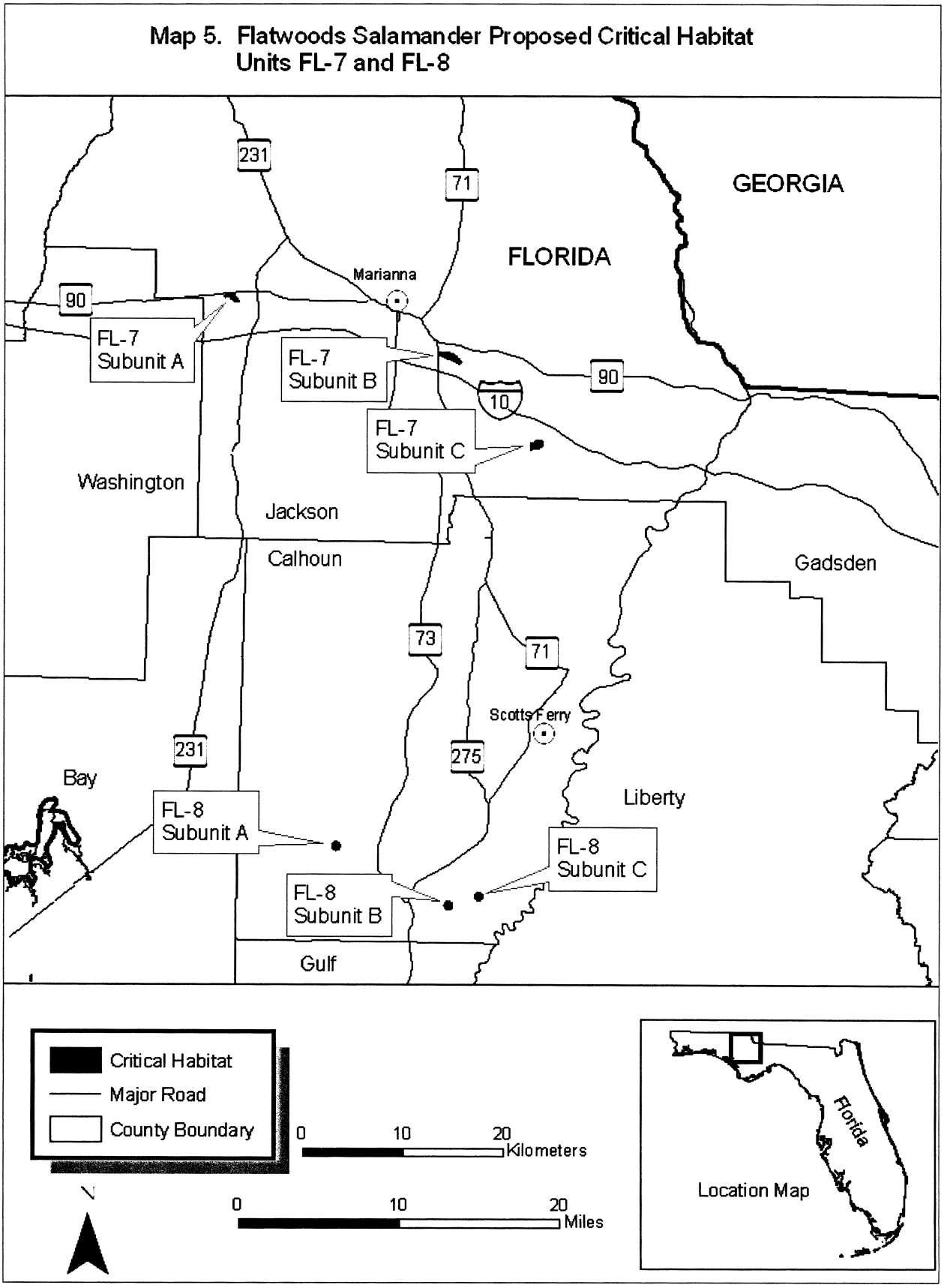
(B) Map depicting Unit FL–8, Subunit B is provided at paragraph (6)(xix)(B) of this entry.

(xix) Unit FL–8, Subunit C: Calhoun County, Florida. From USGS 1:24,000 scale quadrangle map Dead Lake, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 679287.57, 3347164.59; 679280.01, 3347621.72; 679308.73, 3347621.30; 679337.37, 3347619.07; 679365.80, 3347615.04; 679393.93, 3347609.24; 679421.65, 3347601.69; 679448.83, 3347592.40; 679475.37, 3347581.44; 679501.17, 3347568.82; 679526.14, 3347554.61; 679550.15, 3347538.86; 679573.14, 3347521.64; 679594.99, 3347503.00; 679615.64, 3347483.03; 679634.98, 3347461.80; 679652.96, 3347439.40; 679669.50, 3347415.92; 679684.52, 3347391.44; 679697.98, 3347366.07; 679709.83, 3347339.90; 679720.00, 3347313.04; 679728.47, 3347285.59; 679735.20, 3347257.67; 679740.16, 3347229.38; 679743.33, 3347200.84; 679744.71, 3347172.15; 679744.28, 3347143.43; 679742.05, 3347114.79; 679738.03, 3347086.35; 679732.23, 3347058.22; 679724.67, 3347030.51; 679715.39, 3347003.33; 679704.42, 3346976.79; 679691.81, 3346950.98; 679677.60, 3346926.02; 679661.85, 3346902.00; 679644.62, 3346879.02; 679625.99, 3346857.16; 679606.02, 3346836.52; 679584.79, 3346817.17; 679562.39, 3346799.20; 679538.90, 3346782.66; 679514.43, 3346767.63; 679489.05, 3346754.17; 679462.89, 3346742.33; 679436.03, 3346732.16; 679408.58, 3346723.69; 679380.66, 3346716.96; 679352.37, 3346712.00; 679323.82, 3346708.82; 679295.13, 3346707.45; 679266.42, 3346707.88; 679237.78, 3346710.10; 679209.34, 3346714.13; 679181.21, 3346719.93; 679153.50, 3346727.49; 679126.32, 3346736.77; 679099.77, 3346747.74; 679073.97, 3346760.35; 679049.01, 3346774.56; 679024.99, 3346790.31; 679002.01, 3346807.54; 678980.15, 3346826.17; 678959.51, 3346846.14; 678940.16, 3346867.37; 678922.19, 3346889.77; 678905.65, 3346913.25; 678890.62, 3346937.73; 678877.16, 3346963.10; 678865.32, 3346989.27; 678855.15, 3347016.13; 678846.68, 3347043.58; 678839.95, 3347071.50; 678834.99, 3347099.79; 678831.81, 3347128.34; 678830.44, 3347157.02; 678830.86, 3347185.74; 678833.09, 3347214.38; 678837.12, 3347242.82; 678842.92, 3347270.95; 678850.47, 3347298.66; 678859.75, 3347325.84; 678870.72, 3347352.38; 678883.34, 3347378.19; 678897.55, 3347403.15; 678913.30, 3347427.17; 678930.52, 3347450.15; 678949.16, 3347472.00; 678969.13, 3347492.65; 678990.36, 3347512.00; 679012.76, 3347529.97; 679036.24, 3347546.51; 679060.72, 3347561.53; 679086.09, 3347575.00; 679112.26, 3347586.84; 679139.12, 3347597.01; 679166.56, 3347605.48; 679194.49, 3347612.21; 679222.78, 3347617.17; 679251.32, 3347620.35; 679280.01, 3347621.72.

(B) Map of Units FL–7 and FL–8 (Map 5) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(xx) Unit FL–9, Subunit A: Liberty County, Florida. From USGS 1:24,000 scale quadrangle map Estiffanulga, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 689490.86, 3351823.52; 689483.29, 3352280.68; 689512.01, 3352280.25; 689540.64, 3352278.02; 689569.09, 3352274.00; 689597.22, 3352268.20; 689624.93, 3352260.64; 689652.11, 3352251.36; 689678.66, 3352240.39; 689704.47, 3352227.78; 689729.43, 3352213.57; 689753.45, 3352197.82; 689776.44, 3352180.59; 689798.29, 3352161.96; 689818.94, 3352141.99; 689838.29, 3352120.76; 689856.27, 3352098.36; 689872.80, 3352074.87; 689887.83, 3352050.39; 689901.30, 3352025.02; 689913.14, 3351998.85; 689923.31, 3351971.99; 689931.78, 3351944.54; 689938.51, 3351916.62; 689943.48, 3351888.33; 689946.65, 3351859.78; 689948.03, 3351831.09; 689947.60, 3351802.37; 689945.37, 3351773.73; 689941.35, 3351745.29; 689935.55, 3351717.16; 689927.99, 3351689.45; 689918.71, 3351662.27; 689907.74, 3351635.72; 689895.13, 3351609.91; 689880.92, 3351584.95; 689865.17, 3351560.93; 689847.94, 3351537.95; 689829.31, 3351516.09; 689809.33, 3351495.45; 689788.11, 3351476.10; 689765.70, 3351458.12; 689742.22, 3351441.58; 689717.74, 3351426.55; 689692.37, 3351413.09; 689666.20, 3351401.25; 689639.34, 3351391.07; 689611.89, 3351382.60; 689583.96, 3351375.87; 689555.67, 3351370.91; 689527.12, 3351367.73; 689498.43, 3351366.36; 689469.71, 3351366.78; 689441.07, 3351369.01; 689412.63, 3351373.04; 689384.50, 3351378.84; 689356.79, 3351386.39; 689329.61, 3351395.67; 689303.06, 3351406.64; 689277.25, 3351419.26; 689252.29, 3351433.47; 689228.27, 3351449.22; 689205.28, 3351466.44; 689183.43, 3351485.08; 689162.78, 3351505.05; 689143.43, 3351526.28; 689125.45, 3351548.68; 689108.92, 3351572.16; 689093.89, 3351596.64; 689080.43, 3351622.01; 689068.58, 3351648.18; 689058.41, 3351675.04; 689049.94, 3351702.49; 689043.21, 3351730.41; 689038.24, 3351758.71; 689035.07, 3351787.25; 689033.69, 3351815.94; 689034.12, 3351844.66; 689036.35, 3351873.30; 689040.37, 3351901.74; 689046.17, 3351929.87; 689053.73, 3351957.58; 689063.01, 3351984.77; 689073.98, 3352011.31; 689086.59, 3352037.12; 689100.80, 3352062.08; 689116.55, 3352086.10; 689133.78, 3352109.08; 689152.41, 3352130.94; 689172.38, 3352151.59; 689193.61, 3352170.94; 689216.02, 3352188.91; 689239.50, 3352205.45; 689263.98, 3352220.48; 689289.35, 3352233.94; 689315.52, 3352245.78; 689342.38, 3352255.96; 689369.83, 3352264.43; 689397.76, 3352271.16; 689426.05, 3352276.12; 689454.59, 3352279.30; 689483.29, 3352280.68.

(B) Map depicting Unit FL–9, Subunit A is provided at paragraph (6)(xxx)(B) of this entry.

(xxi) Unit FL–9, Subunit B: Liberty County, Florida. From USGS 1:24,000 scale quadrangle maps Estiffanulga, Woods, Orange, and Wilma, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 691779.59, 3350672.99; 690287.06, 3353381.83; 691154.03, 3353692.19; 691852.55, 3352833.72; 692553.20, 3351878.20; 693253.86, 3350922.68; 693661.24, 3350057.79; 693684.72, 3348990.27; 693222.97, 3347912.08; 692056.32, 3347983.53; 691150.93, 3349420.02; 689874.45, 3350071.60; 690047.19, 3351046.33; 690019.43, 3352307.92; 690287.06, 3353381.83.

(B) Map depicting Unit FL–9, Subunit B is provided at paragraph (6)(xxx)(B) of this entry.

(xxii) Unit FL–9, Subunit C: Liberty County, Florida. From USGS 1:24,000 scale quadrangle map Orange, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 689990.64, 3341015.20; 690237.03, 3342409.32; 691013.36, 3342426.37; 691228.75, 3341460.18; 690564.37, 3340765.95; 690096.20, 3339978.94; 689433.95, 3339187.68; 688752.53, 3339269.83; 688821.89, 3340533.53; 689285.79, 3341514.62; 690237.03, 3342409.32.

(B) Map depicting Unit FL–9, Subunit C is provided at paragraph (6)(xxx)(B) of this entry.

(xxiii) Unit FL–9, Subunit D: Liberty County, Florida. From USGS 1:24,000 scale quadrangle map Wilma, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 696265.46, 3342271.68; 696046.86, 3343119.45; 696833.88, 3342651.26; 696945.85, 3341974.06; 696374.23, 3341476.04; 695585.08, 3342041.28; 696046.86, 3343119.45.

(B) Map depicting Unit FL–9, Subunit D is provided at paragraph (6)(xxx)(B) of this entry.

(xxiv) Unit FL–9, Subunit E: Liberty County, Florida. From USGS 1:24,000 scale quadrangle map Wilma, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 697156.42, 3338443.91; 694866.24, 3339403.96; 695935.87, 3339330.34; 696914.84, 3338963.44; 697781.87, 3339273.75; 698843.00, 3339588.32; 700115.26, 3339130.76; 699651.32, 3338149.62; 698493.14, 3337832.93; 697328.58, 3337807.38; 696353.86, 3337980.19; 695381.28, 3338055.95; 694600.66, 3338233.01; 694197.57, 3338903.82; 694866.24, 3339403.96.

(B) Map depicting Unit FL–9, Subunit E is provided at paragraph (6)(xxx)(B) of this entry.

(xxv) Unit FL–9, Subunit F: Liberty County, Florida. From USGS 1:24,000 scale quadrangle maps Orange, and Kennedy Creek, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 686998.58, 3332648.82; 686827.48, 3334081.83; 688276.71, 3334404.86; 689441.20, 3334430.38; 690331.59, 3333673.16; 689958.32, 3332985.34; 688998.53, 3332478.86; 688237.09, 3331782.55; 686988.31, 3331172.66; 686420.95, 3330480.61; 686250.24, 3329408.89; 685092.14, 3329092.27; 684195.41, 3330140.61; 683688.96, 3331100.40; 683665.57, 3332167.86; 684228.67, 3333054.00; 684595.56, 3334032.92; 685160.78, 3334822.02; 685934.97, 3334936.08; 686827.48, 3334081.83.

(B) Map depicting Unit FL–9, Subunit F is provided at paragraph (6)(xxx)(B) of this entry.

(xxvi) Unit FL–9, Subunit G: Liberty County, Florida. From USGS 1:24,000 scale quadrangle map Kennedy Creek, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 687255.71, 3327893.29; 686571.11, 3328056.66; 687047.82, 3328455.45; 687729.23, 3328373.27; 687940.30, 3327601.17; 687073.31, 3327290.93; 686571.11, 3328056.66.

(B) Map depicting Unit FL–9, Subunit G is provided at paragraph (6)(xxx)(B) of this entry.

(xxvii) Unit FL–9, Subunit H: Liberty County, Florida. From USGS 1:24,000 scale quadrangle maps Kennedy Creek and Sumatra, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 693182.05, 3325786.18; 690209.80, 3330369.39; 690697.14, 3330282.96; 691488.36, 3329620.64; 691024.39, 3328639.57; 690935.85, 3328249.27; 691722.81, 3327781.03; 692971.63, 3328390.91; 694226.84, 3328709.67; 695115.12, 3328049.46; 694463.41, 3326772.98; 694474.03, 3326287.75; 695153.35, 3326302.61; 696511.99, 3326332.34; 697298.98, 3325864.09; 697702.03, 3325193.24; 697818.18, 3324321.93; 697446.97, 3323537.06; 696381.59, 3323416.67; 695588.24, 3324176.07; 694712.71, 3324254.01; 694151.66, 3323270.81; 692603.20, 3323042.77; 691246.72, 3322916.03; 691408.97, 3324375.95; 691972.12, 3325262.09; 691664.00, 3326032.09; 690596.53, 3326008.74; 690128.31, 3325221.77; 688868.89, 3325097.14;

688545.91, 3326546.43; 688813.67, 3327620.28; 689180.60, 3328599.22; 689543.26, 3329772.25; 690209.80, 3330369.39.

(B) Map depicting Unit FL–9, Subunit H is provided at paragraph (6)(xxx)(B) of this entry.

(xxviii) Unit FL–9, Subunit I: Liberty County, Florida. From USGS 1:24,000 scale quadrangle map Sumatra and Owens Bridge, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 705471.22, 3324970.20; 704472.05, 3326409.40; 705159.89, 3326036.06; 705759.18, 3325272.38; 706522.85, 3325871.68; 707409.05, 3325308.47; 707042.07, 3324329.45; 705782.53, 3324204.81; 704902.71, 3324476.86; 704029.26, 3324457.76; 703533.40, 3324932.41; 703999.54, 3325816.48; 704472.05, 3326409.40.

(B) Map depicting Unit FL–9, Subunit I is provided at paragraph (6)(xxx)(B) of this entry.

(xxix) Unit FL–9, Subunit J: Liberty County, Florida. From USGS 1:24,000 scale quadrangle map Owens Bridge, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 712287.91, 3326471.46; 712320.50, 3327163.72; 712712.97, 3326978.10; 712924.07, 3326205.90; 712447.29, 3325807.07; 711767.91, 3325792.21; 711651.75, 3326663.58; 712320.50, 3327163.72.

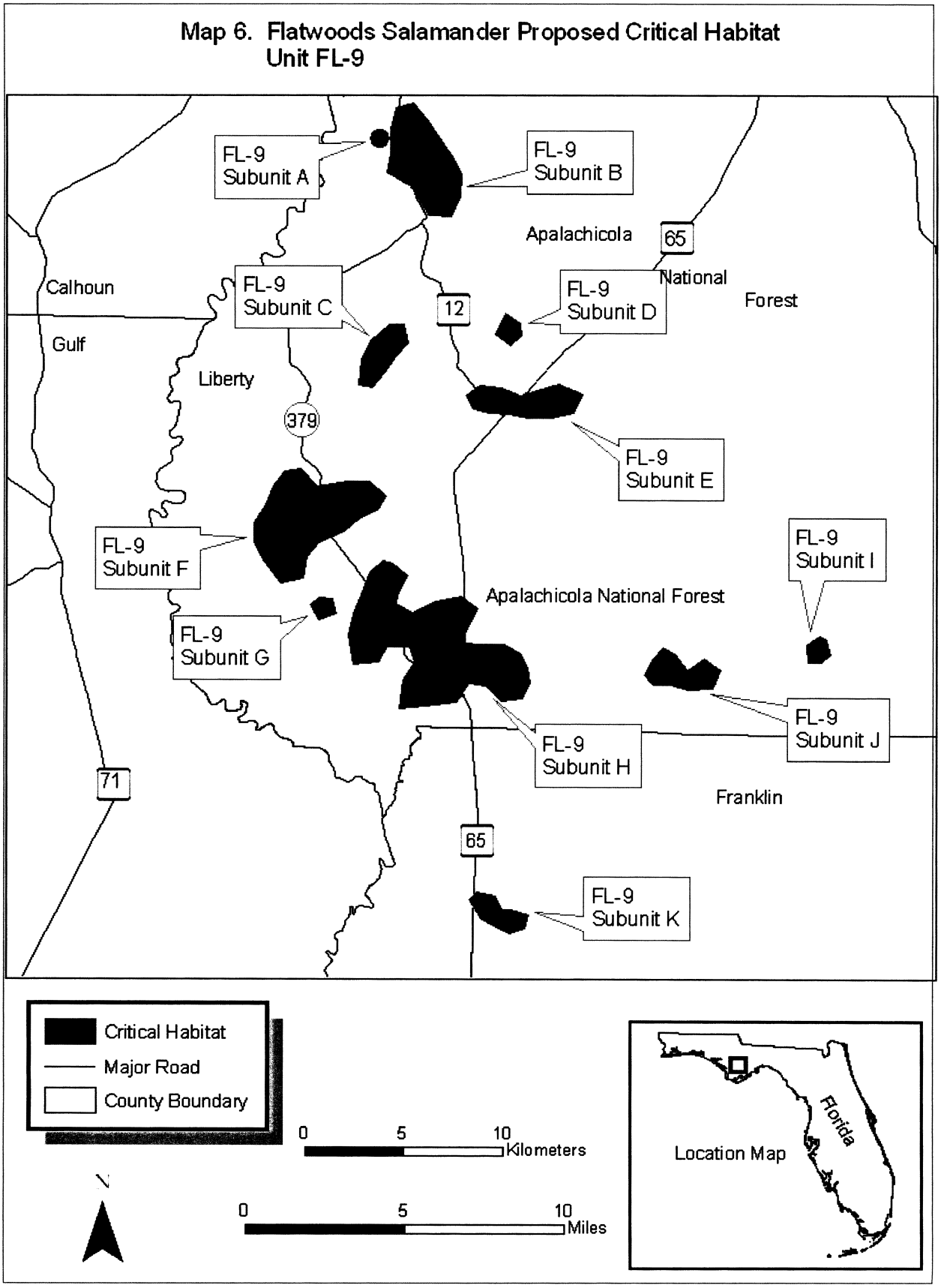
(B) Map depicting Unit FL–9, Subunit J is provided at paragraph (6)(xxx)(B) of this entry.

(xxx) Unit FL–9, Subunit K: Franklin County, Florida. From USGS 1:24,000 scale quadrangle map Fort Gadsden, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 696532.91, 3312509.19; 695399.94, 3313685.97; 696374.63, 3313513.06; 696680.59, 3312840.09; 697165.82, 3312850.67; 698045.59, 3312578.59; 697866.31, 3311895.03; 697096.30, 3311586.96; 696115.25, 3312051.02; 695623.67, 3312331.57; 695020.23, 3313289.32; 695399.94, 3313685.97.

(B) Map of Unit FL–9 (Map 6) follows:

BILLING CODE 4310–55–P



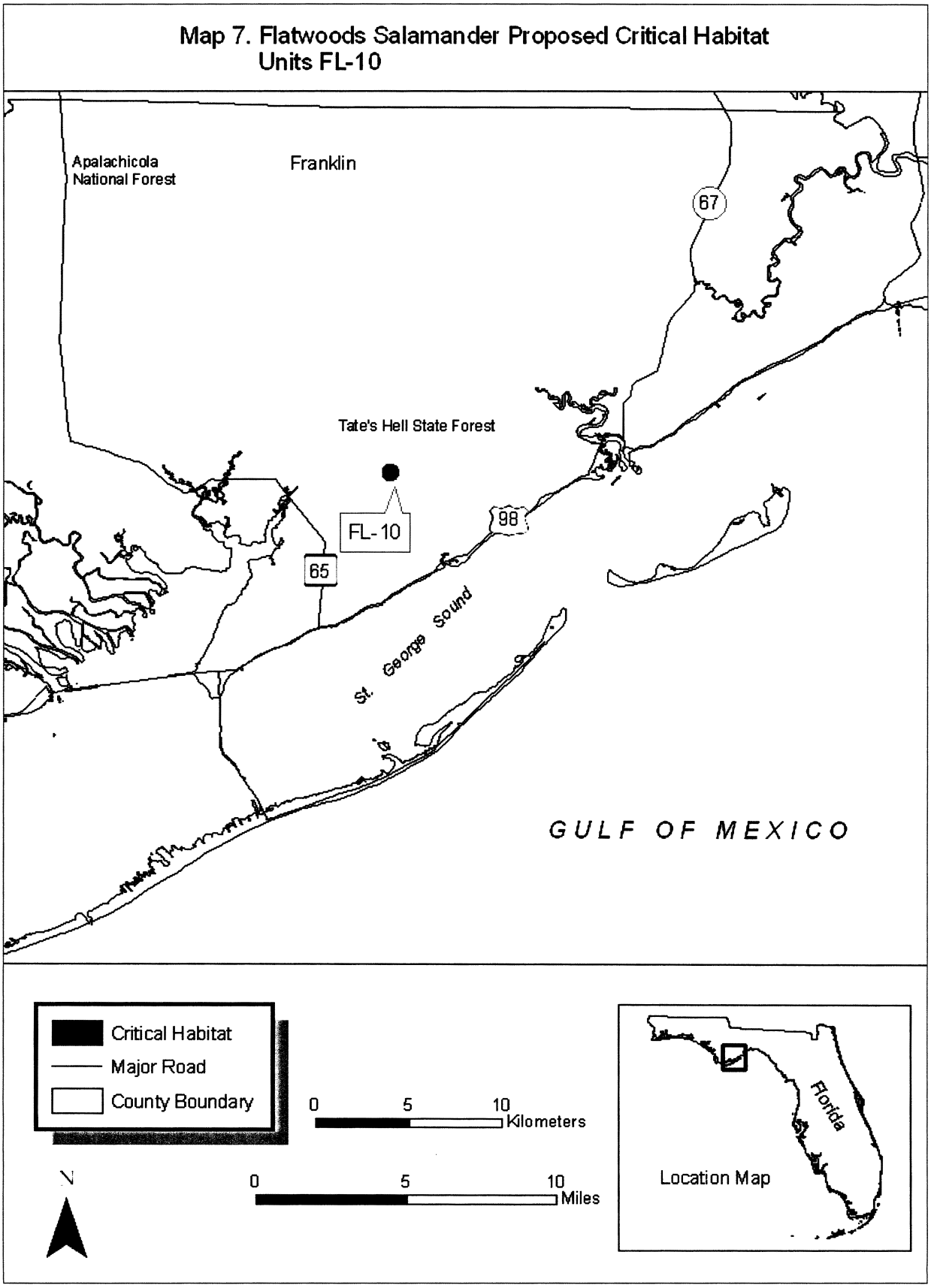
BILLING CODE 4310–55–C

(xxxi) Unit FL–10: Franklin County, Florida. From USGS 1:24,000 scale quadrangle map Green Point, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 713163.69, 3302378.99; 713155.25, 3302836.18; 713183.97, 3302835.81; 713212.61, 3302833.63; 713241.06, 3302829.66; 713269.21, 3302823.91; 713296.94, 3302816.41; 713324.14, 3302807.18; 713350.71, 3302796.26; 713376.54, 3302783.69; 713401.53, 3302769.53; 713425.59, 3302753.82; 713448.61, 3302736.64; 713470.50, 3302718.04; 713491.18, 3302698.11; 713510.57, 3302676.91; 713528.60, 3302654.55; 713545.18, 3302631.09; 713560.26, 3302606.64; 713573.77, 3302581.29; 713585.66, 3302555.14; 713595.89, 3302528.29; 713604.41, 3302500.86; 713611.19, 3302472.95; 713616.21, 3302444.66; 713619.44, 3302416.12; 713620.87, 3302387.43; 713620.50, 3302358.71; 713618.32, 3302330.06; 713614.35, 3302301.61; 713608.61, 3302273.47; 713601.10, 3302245.74; 713591.87, 3302218.54; 713580.95, 3302191.97; 713568.38, 3302166.13; 713554.22, 3302141.14; 713538.52, 3302117.09; 713521.33, 3302094.07; 713502.73, 3302072.18; 713482.80, 3302051.49; 713461.61, 3302032.10; 713439.24, 3302014.08; 713415.78, 3301997.50; 713391.33, 3301982.42; 713365.98, 3301968.91; 713339.83, 3301957.02; 713312.99, 3301946.79; 713285.55, 3301938.27; 713257.64, 3301931.49; 713229.36, 3301926.47; 713200.81, 3301923.24; 713172.12, 3301921.81; 713143.40, 3301922.18; 713114.75, 3301924.35; 713086.30, 3301928.32; 713058.16, 3301934.07; 713030.43, 3301941.58; 713003.23, 3301950.81; 712976.66, 3301961.73; 712950.83, 3301974.29; 712925.84, 3301988.46; 712901.78, 3302004.16; 712878.76, 3302021.35; 712856.87, 3302039.94; 712836.19, 3302059.88; 712816.80, 3302081.07; 712798.77, 3302103.44; 712782.19, 3302126.90; 712767.11, 3302151.35; 712753.60, 3302176.70; 712741.71, 3302202.85; 712731.48, 3302229.69; 712722.96, 3302257.12; 712716.18, 3302285.04; 712711.16, 3302313.32; 712707.93, 3302341.87; 712706.50, 3302370.56; 712706.87, 3302399.28; 712709.05, 3302427.92; 712713.02, 3302456.37; 712718.76, 3302484.52; 712726.27, 3302512.25; 712735.50, 3302539.45; 712746.42, 3302566.02; 712758.99, 3302591.85; 712773.15, 3302616.84; 712788.85, 3302640.89; 712806.04, 3302663.91; 712824.64, 3302685.81; 712844.57, 3302706.49; 712865.76, 3302725.88; 712888.13, 3302743.90; 712911.59, 3302760.49; 712936.04, 3302775.56; 712961.39, 3302789.07; 712987.54, 3302800.97; 713014.38, 3302811.19; 713041.82, 3302819.72; 713069.73, 3302826.50; 713098.01, 3302831.52; 713126.56, 3302834.75; 713155.25, 3302836.18.

(B) Map of Unit FL–10 (Map 7) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(xxxii) Unit FL–11, Subunit A: Wakulla County, Florida. From USGS 1:24,000 scale quadrangle map St. Marks, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 774468.73, 3340147.62; 774190.54, 3341600.79; 774207.58, 3341623.93; 774226.04, 3341645.96; 774245.84, 3341666.79; 774266.91, 3341686.33; 774289.17, 3341704.50; 774312.52, 3341721.25; 774336.88, 3341736.50; 774362.15, 3341750.18; 774388.23, 3341762.25; 774415.01, 3341772.67; 774442.40, 3341781.38; 774470.28, 3341788.35; 774498.54, 3341793.56; 774527.07, 3341796.98; 774555.76, 3341798.61; 774584.50, 3341798.43; 774613.17, 3341796.44; 774641.65, 3341792.66; 774669.85, 3341787.10; 774697.64, 3341779.78; 774724.91, 3341770.73; 774751.56, 3341759.98; 774777.49, 3341747.59; 774802.59, 3341733.58; 774826.75, 3341718.04; 774849.90, 3341701.00; 774871.92, 3341682.54; 774892.75, 3341662.74; 774912.29, 3341641.67; 775378.43, 3341173.51; 775544.42, 3341007.05; 775567.45, 3340989.86; 775589.36, 3340971.26; 775610.05, 3340951.32; 775629.46, 3340930.12; 775647.49, 3340907.75; 775664.08, 3340884.29; 775679.17, 3340859.83; 775692.69, 3340834.47; 775704.60, 3340808.31; 775714.83, 3340781.46; 775723.36, 3340754.02; 775730.15, 3340726.09; 775735.18, 3340697.80; 775738.42, 3340669.25; 775739.85, 3340640.54; 775739.49, 3340611.81; 775737.32, 3340583.15; 775733.35, 3340554.69; 775727.61, 3340526.53; 775720.10, 3340498.79; 775710.88, 3340471.58; 775699.96, 3340444.99; 775687.39, 3340419.15; 775673.22, 3340394.15; 775657.52, 3340370.08; 775640.33, 3340347.05; 775621.73, 3340325.14; 774949.15, 3339783.33; 774965.74, 3339759.90; 774980.82, 3339735.42; 774994.28, 3339710.02; 775006.21, 3339683.91; 775016.43, 3339656.98; 775024.93, 3339629.57; 775031.80, 3339601.67; 775036.75, 3339573.39; 775040.07, 3339544.85; 775041.46, 3339516.15; 775041.12, 3339487.41; 775040.98, 3339485.18; 775057.39, 3339480.71; 775084.52, 3339471.52; 775111.12, 3339460.54; 775136.98, 3339447.98; 775162.02, 3339433.85; 775186.04, 3339418.15; 775209.12, 3339400.97; 775231.00, 3339382.33; 775251.65, 3339362.43; 775271.08, 3339341.17; 775289.09, 3339318.88; 775305.69, 3339295.33; 775320.86, 3339270.97; 775334.32, 3339245.57; 775346.25, 3339219.46; 775356.47, 3339192.53; 775364.97, 3339165.12; 775371.75, 3339137.22; 775376.79, 3339108.94; 775380.02, 3339080.29; 775381.51, 3339051.59; 775381.17, 3339022.96; 775378.99, 3338994.28; 775374.99, 3338965.77; 775369.23, 3338937.67; 775361.73, 3338909.86; 775352.48, 3338882.66; 775341.58, 3338856.09; 775329.02, 3338830.26; 775314.89, 3338805.28; 775299.20, 3338781.14; 775281.94, 3338758.18; 775263.40, 3338736.19; 775243.47, 3338715.50; 775222.26, 3338696.11; 775199.86, 3338678.13; 775176.36, 3338661.56; 775151.96, 3338646.42; 775126.56, 3338632.91; 775100.43, 3338621.05; 775073.60, 3338610.73; 775046.13, 3338602.27; 775018.24, 3338595.47; 774989.92, 3338590.43; 774961.37, 3338587.17; 774932.67, 3338585.78; 774903.93, 3338586.06; 774875.23, 3338588.34; 774846.78, 3338592.29; 774818.68, 3338598.02; 774790.91, 3338605.53; 774763.68, 3338614.73; 774737.09, 3338625.60; 774711.22, 3338638.27; 774686.28, 3338652.40; 774662.16, 3338668.10; 774639.56, 3338684.96; 774638.22, 3338684.81; 774609.52, 3338683.43; 774582.13, 3338683.74; 774581.52, 3338680.84; 774574.02, 3338653.14; 774564.77, 3338625.84; 774553.86, 3338599.27; 774541.30, 3338573.44; 774527.17, 3338548.45; 774511.48, 3338524.43; 774494.21, 3338501.36; 774475.67, 3338479.49; 774455.74, 3338458.80; 774434.54, 3338439.30; 774412.13, 3338421.32; 774388.73, 3338404.76; 774364.23, 3338389.61; 774338.82, 3338376.10; 774312.70, 3338364.25; 774285.86, 3338353.92; 774258.40, 3338345.47; 774230.51, 3338338.67; 774202.19, 3338333.64; 774173.63, 3338330.37; 774144.93, 3338328.99; 774116.19, 3338329.27; 774087.59, 3338331.44; 774059.04, 3338335.50; 774030.94, 3338341.23; 774003.17, 3338348.75; 773975.94, 3338357.95; 773949.44, 3338368.82; 773923.58, 3338381.38; 773898.54, 3338395.62; 773874.52, 3338411.33; 773851.43, 3338428.51; 773829.56, 3338447.05; 773808.82, 3338467.05; 773789.49, 3338488.21; 773771.38, 3338510.61; 773754.79, 3338534.05; 773739.71, 3338558.53; 773726.26, 3338583.82; 773714.32, 3338610.04; 773704.11, 3338636.86; 773695.52, 3338664.27; 773688.75, 3338692.28; 773683.70, 3338720.56; 773680.48, 3338749.10; 773679.09, 3338777.80; 773679.44, 3338806.55; 773681.61, 3338835.23; 773685.54, 3338863.61; 773691.29, 3338891.83; 773698.80, 3338919.53; 773708.05, 3338946.72; 773718.96, 3338973.29; 773731.52, 3338999.23; 773745.65, 3339024.21; 773761.35, 3339048.24; 773778.61, 3339071.30; 773797.15, 3339093.17; 773817.08, 3339113.86; 773838.29, 3339133.25; 773860.69, 3339151.34; 773884.19, 3339167.91; 773908.59, 3339183.05; 773934.00, 3339196.55; 773960.12, 3339208.41; 773986.96, 3339218.62; 774014.42, 3339227.18; 774042.30, 3339233.98; 774070.62, 3339239.02; 774099.18, 3339242.28; 774127.88, 3339243.66; 774155.27, 3339243.24; 774155.87, 3339246.25; 774163.37, 3339273.95; 774172.62, 3339301.25; 774174.07, 3339304.84; 774173.87, 3339305.17; 774162.04, 3339331.28; 774151.73, 3339358.09; 774143.23, 3339385.62; 774136.46, 3339413.52; 774131.41, 3339441.79; 774128.19, 3339470.34; 774126.70, 3339499.04; 774127.14, 3339527.78; 774129.22, 3339556.46; 774133.24, 3339584.85; 774138.99, 3339613.07; 774146.50, 3339640.77; 774150.18, 3339651.73; 774130.12, 3339663.21; 774106.01, 3339678.92; 774083.02, 3339696.10; 774061.06, 3339714.63; 774040.41, 3339734.64; 774020.99, 3339755.79; 774002.98, 3339778.20; 773986.39, 3339801.64; 773971.31, 3339826.11; 773957.76, 3339851.52; 773945.83, 3339877.62; 773935.61, 3339904.44; 773927.12, 3339931.97; 773920.35, 3339959.87; 773915.30, 3339988.14; 773912.08, 3340016.69; 773910.59, 3340045.39; 773910.78, 3340061.14; 773909.48, 3340059.12; 773892.32, 3340036.05; 773873.77, 3340014.18; 773853.75, 3339993.49; 773832.55, 3339974.10; 773810.24, 3339956.01; 773786.75, 3339939.45; 773762.25, 3339924.30; 773736.94, 3339910.80; 773710.82, 3339898.94; 773683.89, 3339888.73; 773656.53, 3339880.17; 773628.54, 3339873.37; 773600.23, 3339868.34; 773571.67, 3339865.07; 773542.98, 3339863.69; 773514.24, 3339863.97; 773485.65, 3339866.15; 773457.20, 3339870.21; 773429.00, 3339875.94; 773401.24, 3339883.46; 773374.02, 3339892.66; 773347.43, 3339903.53; 773321.66, 3339916.09; 773296.62, 3339930.34; 773272.52, 3339946.05; 773249.53, 3339963.22; 773227.66, 3339981.76; 773206.92, 3340001.77; 773187.50, 3340022.92; 773169.49, 3340045.33; 773152.90, 3340068.77; 773137.83, 3340093.25; 773124.28, 3340118.54; 773112.35, 3340144.76; 773102.14, 3340171.58; 773093.65, 3340198.99; 773086.78, 3340226.89; 773081.83, 3340255.28; 773078.52, 3340283.82; 773077.13, 3340312.52; 773077.48, 3340341.27; 773079.66, 3340369.83; 773083.67, 3340398.34; 773089.33, 3340426.55; 773096.84, 3340454.25; 773106.09, 3340481.44; 773117.00, 3340508.00; 773129.56, 3340533.84; 773143.78, 3340558.93; 773159.48, 3340582.95; 773176.64, 3340606.01; 773195.28, 3340627.89; 773215.21, 3340648.58; 773236.41, 3340667.97;

773240.38, 3340671.17; 774190.54, 3341600.79.

(B) Map depicting Unit FL–11, Subunit A is provided at paragraph (6)(xxxvi)(B) of this entry.

(xxxiii) Unit FL–11, Subunit B: Wakulla County, Florida. From USGS 1:24,000 scale quadrangle map St. Marks NE, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 777620.81, 3340587.45; 777609.30, 3341044.76; 777638.03, 3341044.58; 777666.70, 3341042.60; 777695.19, 3341038.82; 777723.39, 3341033.26; 777751.18, 3341025.93; 777778.45, 3341016.88; 777805.10, 3341006.14; 777831.03, 3340993.74; 777856.13, 3340979.74; 777880.29, 3340964.19; 777903.44, 3340947.15; 777925.47, 3340928.69; 777946.29, 3340908.89; 777965.83, 3340887.82; 777984.01, 3340865.56; 778000.76, 3340842.21; 778016.00, 3340817.85; 778029.69, 3340792.58; 778041.76, 3340766.50; 778052.18, 3340739.71; 778060.89, 3340712.33; 778067.86, 3340684.45; 778073.07, 3340656.19; 778076.49, 3340627.65; 778078.11, 3340598.96; 778077.93, 3340570.22; 778075.95, 3340541.55; 778072.17, 3340513.07; 778066.61, 3340484.87; 778059.29, 3340457.08; 778050.24, 3340429.81; 778039.49, 3340403.15; 778027.09, 3340377.23; 778013.09, 3340352.13; 777997.54, 3340327.96; 777980.50, 3340304.82; 777962.05, 3340282.79; 777942.24, 3340261.97; 777921.17, 3340242.43; 777898.91, 3340224.25; 777875.56, 3340207.50; 777851.20, 3340192.25; 777825.93, 3340178.57; 777799.85, 3340166.49; 777773.07, 3340156.08; 777745.68, 3340147.37; 777717.80, 3340140.40; 777689.54, 3340135.19; 777661.01, 3340131.77; 777632.31, 3340130.14; 777603.58, 3340130.32; 777574.91, 3340132.31; 777546.42, 3340136.09; 777518.22, 3340141.65; 777490.43, 3340148.97; 777463.16, 3340158.02; 777436.51, 3340168.77; 777410.58, 3340181.17; 777385.48, 3340195.17; 777361.32, 3340210.72; 777338.17, 3340227.76; 777316.15, 3340246.21; 777295.32, 3340266.02; 777275.78, 3340287.09; 777257.60, 3340309.34; 777240.85, 3340332.70; 777225.61, 3340357.06; 777211.92, 3340382.33; 777199.85, 3340408.41; 777189.44, 3340435.19; 777180.73, 3340462.58; 777173.76, 3340490.46; 777168.55, 3340518.72; 777165.12, 3340547.25; 777163.50, 3340575.94; 777163.68, 3340604.68; 777165.66, 3340633.35; 777169.44, 3340661.84; 777175.00, 3340690.03; 777182.32, 3340717.82; 777191.38, 3340745.10; 777202.12, 3340771.75; 777214.52, 3340797.68; 777228.52, 3340822.77; 777244.07, 3340846.94; 777261.11, 3340870.08; 777279.56, 3340892.11; 777299.37, 3340912.94; 777320.44, 3340932.48; 777342.70, 3340950.66; 777366.05, 3340967.40; 777390.41, 3340982.65; 777415.68, 3340996.34; 777441.76, 3341008.41; 777468.54, 3341018.82; 777495.93, 3341027.53; 777523.81, 3341034.50; 777552.07, 3341039.71; 777580.61, 3341043.14; 777609.30, 3341044.76.

(B) Map depicting Unit FL–11, Subunit B is provided at paragraph (6)(xxxvi)(B) of this entry.

(xxxiv) Unit FL–11, Subunit C: Wakulla and Jefferson counties, Florida. From USGS 1:24,000 scale quadrangle map St. Marks NE, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 779913.58, 3337013.71; 779890.58, 3337030.88; 779868.59, 3337049.51; 779847.93, 3337069.40; 779828.49, 3337090.65; 779810.46, 3337113.05; 779793.95, 3337136.49; 779778.86, 3337160.96; 779765.29, 3337186.35; 779753.44, 3337212.46; 779743.21, 3337239.27; 779734.60, 3337266.79; 779727.81, 3337294.69; 779722.85, 3337322.96; 779719.61, 3337351.51; 779718.11, 3337380.21; 779718.54, 3337408.95; 779720.70, 3337437.63; 779724.60, 3337466.14; 779730.35, 3337494.24; 779737.94, 3337521.95; 779747.08, 3337549.15; 779758.07, 3337575.84; 779770.63, 3337601.67; 779784.74, 3337626.67; 779800.53, 3337650.70; 779817.68, 3337673.77; 779836.32, 3337695.66; 779856.23, 3337716.36; 779877.44, 3337735.76; 779899.74, 3337753.75; 779923.23, 3337770.33; 779947.73, 3337785.49; 779973.04, 3337799.00; 779999.25, 3337810.88; 780026.09, 3337821.10; 780046.47, 3337827.50; 780031.40, 3337836.00; 780007.37, 3337851.69; 779984.27, 3337868.86; 779962.39, 3337887.50; 779941.73, 3337907.38; 779922.28, 3337928.64; 779904.26, 3337951.03; 779887.65, 3337974.46; 779872.56, 3337998.93; 779859.09, 3338024.33; 779847.14, 3338050.43; 779836.91, 3338077.25; 779828.40, 3338104.77; 779821.61, 3338132.67; 779816.55, 3338160.94; 779813.32, 3338189.48; 779811.91, 3338218.19; 779812.24, 3338246.93; 779814.40, 3338275.61; 779818.40, 3338304.12; 779824.15, 3338332.22; 779831.64, 3338359.93; 779840.88, 3338387.13; 779851.77, 3338413.81; 779864.42, 3338439.66; 779878.53, 3338464.65; 779894.22, 3338488.68; 779911.47, 3338511.75; 779930.01, 3338533.64; 779950.02, 3338554.34; 779971.22, 3338573.75; 779993.52, 3338591.74; 780017.01, 3338608.31; 780041.50, 3338623.47; 780066.81, 3338636.99; 780093.02, 3338648.86; 780119.86, 3338659.09; 780147.32, 3338667.67; 780175.21, 3338674.37; 780203.52, 3338679.42; 780232.08, 3338682.70; 780260.78, 3338684.10; 780289.53, 3338683.72; 780318.13, 3338681.57; 781659.14, 3338623.35; 781687.25, 3338617.53; 781715.02, 3338610.03; 781742.26, 3338600.85; 781768.87, 3338589.89; 781794.65, 3338577.34; 781819.70, 3338563.23; 781843.73, 3338547.42; 781866.83, 3338530.26; 781888.71, 3338511.74; 781909.38, 3338491.75; 781928.83, 3338470.61; 781946.86, 3338448.21; 781963.47, 3338424.67; 781978.46, 3338400.21; 781992.04, 3338374.92; 782003.90, 3338348.71; 782014.13, 3338321.90; 782022.74, 3338294.49; 782029.54, 3338266.48; 782034.51, 3338238.21; 782037.75, 3338209.66; 782039.16, 3338180.96; 782038.84, 3338152.22; 782036.68, 3338123.53; 782032.68, 3338095.14; 782029.68, 3338080.53; 782045.61, 3338076.16; 782072.85, 3338066.99; 782099.46, 3338056.02; 782125.24, 3338043.48; 782150.29, 3338029.37; 782174.32, 3338013.56; 782197.43, 3337996.40; 782219.32, 3337977.77; 782239.98, 3337957.88; 782259.43, 3337936.64; 782277.46, 3337914.35; 782293.98, 3337890.81; 782309.07, 3337866.35; 782322.64, 3337841.06; 782334.50, 3337814.85; 782344.74, 3337788.04; 782353.26, 3337760.52; 782360.05, 3337732.62; 782365.12, 3337704.35; 782368.36, 3337675.80; 782369.77, 3337647.10; 782369.45, 3337618.36; 782367.20, 3337589.67; 782363.30, 3337561.28; 782357.56, 3337533.06; 782350.08, 3337505.35; 782340.85, 3337478.15; 782329.86, 3337451.57; 782317.31, 3337425.73; 782303.10, 3337400.73; 782287.42, 3337376.58; 782270.27, 3337353.62; 782251.64, 3337331.73; 782231.72, 3337311.02; 782210.52, 3337291.61; 782188.13, 3337273.51; 782164.64, 3337256.93; 782140.24, 3337241.87; 782114.83, 3337228.35; 780938.29, 3336769.14; 780910.83, 3336760.56; 780882.94, 3336753.74; 780854.61, 3336748.80; 780826.05, 3336745.52; 780797.34, 3336744.12; 780768.59, 3336744.50; 780751.68, 3336745.73; 780740.59, 3336730.80; 780721.95, 3336708.91; 780702.04, 3336688.21; 780680.83, 3336668.80; 780658.43, 3336650.81; 780635.04, 3336634.12; 780610.54, 3336619.07; 780585.23, 3336605.56; 780559.01, 3336593.68; 780532.17, 3336583.45; 780504.70, 3336574.88; 780476.81, 3336568.06; 780448.49, 3336563.12; 780419.92, 3336559.84; 780391.22, 3336558.44; 780362.56, 3336558.82; 780333.86, 3336560.97; 780305.41, 3336564.91; 780277.29, 3336570.63; 780249.52, 3336578.13; 780222.27, 3336587.42; 780195.67, 3336598.28;

780169.88, 3336610.94; 780144.83, 3336625.05; 780120.80, 3336640.75; 780097.79, 3336657.92; 780075.81, 3336676.55; 780055.15, 3336696.44; 780035.80, 3336717.70; 780017.67, 3336740.09; 780001.16, 3336763.52; 779986.07, 3336787.99; 779972.50, 3336813.39; 779960.65, 3336839.49; 779950.42, 3336866.31; 779941.81, 3336893.82; 779935.02, 3336921.72; 779930.06, 3336950.00; 779926.82, 3336978.54; 779925.35, 3337006.02; 779913.58, 3337013.71.

(B) Map depicting Unit FL–11, Subunit C is provided at paragraph (6)(xxxvi)(B) of this entry.

(xxxv) Unit FL–11, Subunit D: Jefferson County, Florida. From USGS 1:24,000 scale quadrangle map St. Marks NE, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 783748.26, 3340815.77; 783736.43, 3341273.09; 783765.17, 3341272.93; 783793.84, 3341270.96; 783822.34, 3341267.20; 783850.54, 3341261.66; 783878.33, 3341254.36; 783905.62, 3341245.33; 783932.28, 3341234.60; 783958.21, 3341222.22; 783983.32, 3341208.23; 784007.50, 3341192.70; 784030.66, 3341175.68; 784052.70, 3341157.24; 784073.54, 3341137.45; 784093.09, 3341116.39; 784111.29, 3341094.14; 784128.05, 3341070.80; 784143.32, 3341046.45; 784157.02, 3341021.19; 784169.11, 3340995.12; 784179.54, 3340968.34; 784188.27, 3340940.95; 784195.27, 3340913.08; 784200.49, 3340884.82; 784203.94, 3340856.29; 784205.58, 3340827.60; 784205.42, 3340798.86; 784203.46, 3340770.18; 784199.70, 3340741.69; 784194.16, 3340713.49; 784186.85, 3340685.70; 784177.82, 3340658.41; 784167.09, 3340631.75; 784154.71, 3340605.82; 784140.73, 3340580.71; 784125.19, 3340556.53; 784108.17, 3340533.37; 784089.73, 3340511.33; 784069.94, 3340490.49; 784048.88, 3340470.94; 784026.64, 3340452.74; 784003.29, 3340435.98; 783978.94, 3340420.71; 783953.68, 3340407.01; 783927.61, 3340394.92; 783900.83, 3340384.49; 783873.45, 3340375.76; 783845.57, 3340368.76; 783817.31, 3340363.54; 783788.78, 3340360.09; 783760.09, 3340358.45; 783731.35, 3340358.61; 783702.68, 3340360.57; 783674.19, 3340364.33; 783645.99, 3340369.87; 783618.19, 3340377.18; 783590.91, 3340386.21; 783564.25, 3340396.94; 783538.31, 3340409.32; 783513.20, 3340423.30; 783489.03, 3340438.84; 783465.87, 3340455.86; 783443.83, 3340474.30; 783422.99, 3340494.09; 783403.43, 3340515.15; 783385.24, 3340537.39; 783368.47, 3340560.74; 783353.21, 3340585.09; 783339.50, 3340610.35; 783327.41, 3340636.42; 783316.98, 3340663.20; 783308.25, 3340690.58; 783301.26, 3340718.46; 783296.03, 3340746.72; 783292.59, 3340775.25; 783290.94, 3340803.94; 783291.10, 3340832.68; 783293.07, 3340861.35; 783296.83, 3340889.84; 783302.37, 3340918.04; 783309.67, 3340945.84; 783318.70, 3340973.12; 783329.43, 3340999.78; 783341.81, 3341025.72; 783355.80, 3341050.82; 783371.33, 3341075.00; 783388.35, 3341098.16; 783406.79, 3341120.20; 783426.58, 3341141.04; 783447.64, 3341160.60; 783469.89, 3341178.79; 783493.23, 3341195.56; 783517.58, 3341210.82; 783542.84, 3341224.53; 783568.91, 3341236.62; 783595.69, 3341247.05; 783623.08, 3341255.78; 783650.95, 3341262.77; 783679.21, 3341268.00; 783707.74, 3341271.44; 783736.43, 3341273.09.

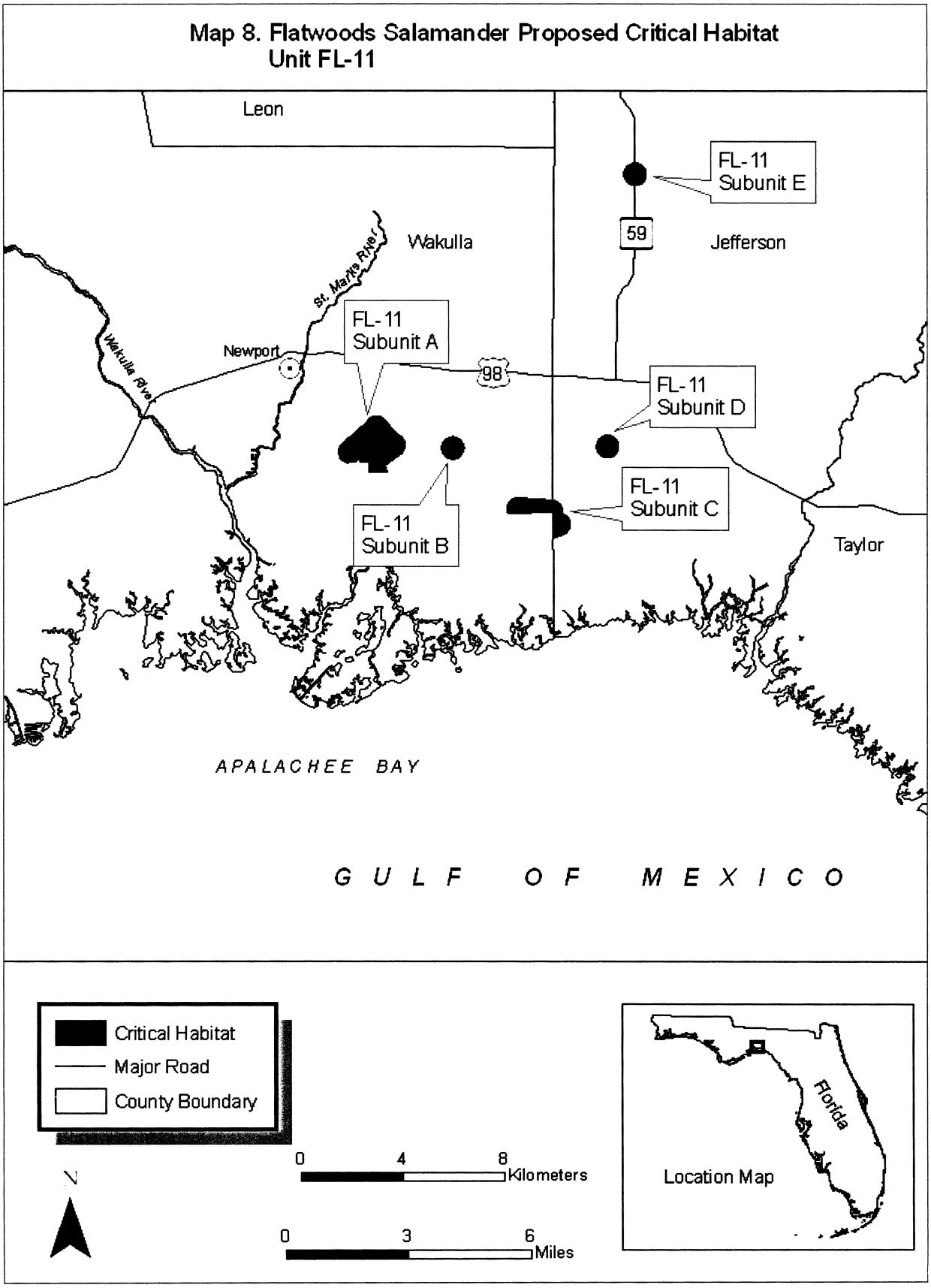
(B) Map depicting Unit FL–11, Subunit D is provided at paragraph (6)(xxxvi)(B) of this entry.

(xxxvi) Unit FL–11, Subunit E: Jefferson County, Florida. From USGS 1:24,000 scale quadrangle map Cody, Florida.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 784571.80, 3351736.64; 784608.07, 3351280.60; 784579.36, 3351279.22; 784554.83, 3351279.59; 784550.62, 3351279.65; 784521.97, 3351281.88; 784493.51, 3351285.91; 784465.37, 3351291.71; 784437.64, 3351299.27; 784410.44, 3351308.56; 784383.88, 3351319.54; 784358.06, 3351332.16; 784333.09, 3351346.38; 784309.05, 3351362.14; 784286.06, 3351379.37; 784264.19, 3351398.02; 784243.53, 3351418.00; 784224.17, 3351439.25; 784206.19, 3351461.66; 784189.64, 3351485.16; 784174.61, 3351509.65; 784161.14, 3351535.04; 784149.29, 3351561.22; 784139.11, 3351588.10; 784130.64, 3351615.56; 784123.90, 3351643.50; 784118.94, 3351671.81; 784115.76, 3351700.37; 784114.38, 3351729.08; 784114.81, 3351757.81; 784117.04, 3351786.47; 784121.07, 3351814.92; 784126.87, 3351843.07; 784134.43, 3351870.80; 784143.72, 3351897.99; 784154.70, 3351924.55; 784167.32, 3351950.37; 784181.54, 3351975.35; 784197.30, 3351999.38; 784214.53, 3352022.38; 784233.18, 3352044.25; 784253.16, 3352064.90; 784274.40, 3352084.26; 784296.82, 3352102.25; 784320.32, 3352118.79; 784344.81, 3352133.83; 784370.20, 3352147.30; 784396.38, 3352159.15; 784423.26, 3352169.33; 784450.72, 3352177.80; 784478.66, 3352184.53; 784506.97, 3352189.50; 784535.53, 3352192.68; 784558.55, 3352193.78; 784564.24, 3352194.05; 784592.97, 3352193.63; 784621.63, 3352191.40; 784650.08, 3352187.37; 784678.23, 3352181.56; 784705.96, 3352174.00; 784733.15, 3352164.72; 784759.71, 3352153.74; 784785.53, 3352141.12; 784810.51, 3352126.90; 784834.54, 3352111.14; 784857.54, 3352093.90; 784879.41, 3352075.26; 784900.06, 3352055.27; 784919.42, 3352034.03; 784937.41, 3352011.62; 784953.96, 3351988.12; 784968.99, 3351963.63; 784982.46, 3351938.24; 784994.31, 3351912.06; 785004.49, 3351885.18; 785012.96, 3351857.72; 785019.70, 3351829.78; 785024.66, 3351801.47; 785027.84, 3351772.91; 785029.21, 3351744.20; 785028.79, 3351715.46; 785026.56, 3351686.81; 785022.53, 3351658.36; 785016.72, 3351630.21; 785009.16, 3351602.48; 784999.88, 3351575.28; 784988.90, 3351548.72; 784976.28, 3351522.90; 784962.06, 3351497.93; 784946.30, 3351473.89; 784929.06, 3351450.90; 784910.42, 3351429.03; 784890.43, 3351408.37; 784869.19, 3351389.01; 784846.78, 3351371.03; 784823.28, 3351354.48; 784798.79, 3351339.44; 784773.40, 3351325.98; 784747.21, 3351314.13; 784720.34, 3351303.95; 784692.88, 3351295.47; 784664.94, 3351288.74; 784636.63, 3351283.78; 784608.07, 3351280.60.

(B) Map of Unit FL–11 (Map 8) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(xxxvii) Unit FL–12, Subunit A: Baker County, Florida. From USGS 1:24,000 scale quadrangle maps Big Gum Swamp, Olustee, Sanderson North, and Sanderson South, Florida.

(A) Land bounded by the following UTM Zone 17N, NAD83 coordinates (E, N): 372674.30, 3352411.55; 372690.87, 3352868.36; 372719.52, 3352866.42; 372748.00, 3352862.68; 372776.18, 3352857.17; 372803.96, 3352849.89; 372831.22, 3352840.88; 372857.87, 3352830.18; 372883.80, 3352817.83; 372908.89, 3352803.88; 372933.07, 3352788.37; 372956.22, 3352771.38; 372978.25, 3352752.97; 372999.09, 3352733.21; 373018.65, 3352712.18; 373036.84, 3352689.97; 373053.61, 3352666.65; 373068.88, 3352642.33; 373082.59, 3352617.10; 373094.69, 3352591.06; 373105.13, 3352564.31; 373113.88, 3352536.96; 373120.88, 3352509.11; 373126.13, 3352480.87; 373129.59, 3352452.37; 373131.25, 3352423.70; 373131.11, 3352394.98; 373129.17, 3352366.33; 373125.43, 3352337.86; 373119.92, 3352309.68; 373112.64, 3352281.90; 373103.63, 3352254.63; 373092.93, 3352227.98; 373080.58, 3352202.06; 373066.63, 3352176.96; 373051.12, 3352152.79; 373034.13, 3352129.64; 373015.72, 3352107.60; 372995.96, 3352086.77; 372974.93, 3352067.21; 372952.72, 3352049.01; 372929.40, 3352032.25; 372905.08, 3352016.98; 372879.85, 3352003.27; 372853.81, 3351991.16; 372827.06, 3351980.72; 372799.71, 3351971.98; 372771.86, 3351964.97; 372743.63, 3351959.73; 372715.12, 3351956.27; 372686.45, 3351954.60; 372657.73, 3351954.74; 372629.08, 3351956.68; 372600.61, 3351960.42; 372572.43, 3351965.94; 372544.65, 3351973.22; 372517.38, 3351982.22; 372490.73, 3351992.92; 372464.81, 3352005.27; 372439.71, 3352019.23; 372415.54, 3352034.73; 372392.39, 3352051.73; 372370.35, 3352070.14; 372349.52, 3352089.90; 372329.96, 3352110.92; 372311.76, 3352133.14; 372295.00, 3352156.45; 372279.73, 3352180.77; 372266.02, 3352206.00; 372253.91, 3352232.05; 372243.47, 3352258.80; 372234.73, 3352286.15; 372227.72, 3352314.00; 372222.48, 3352342.23; 372219.02, 3352370.74; 372217.35, 3352399.41; 372217.49, 3352428.12; 372219.44, 3352456.77; 372223.17, 3352485.25; 372228.69, 3352513.43; 372235.97, 3352541.21; 372244.97, 3352568.47; 372255.67, 3352595.12; 372268.02, 3352621.05; 372281.98, 3352646.14; 372297.48, 3352670.31; 372314.48, 3352693.46; 372332.89, 3352715.50; 372352.65, 3352736.34; 372373.67, 3352755.90; 372395.89, 3352774.09; 372419.20, 3352790.86; 372443.52, 3352806.13; 372468.75, 3352819.84; 372494.80, 3352831.94; 372521.55, 3352842.38; 372548.90, 3352851.13; 372576.75, 3352858.13; 372604.98, 3352863.38; 372633.49, 3352866.84; 372662.16, 3352868.50; 372690.87, 3352868.36.

(B) Map depicting Unit FL–12, Subunit A is provided at paragraph (6)(xxxviii)(B) of this entry.

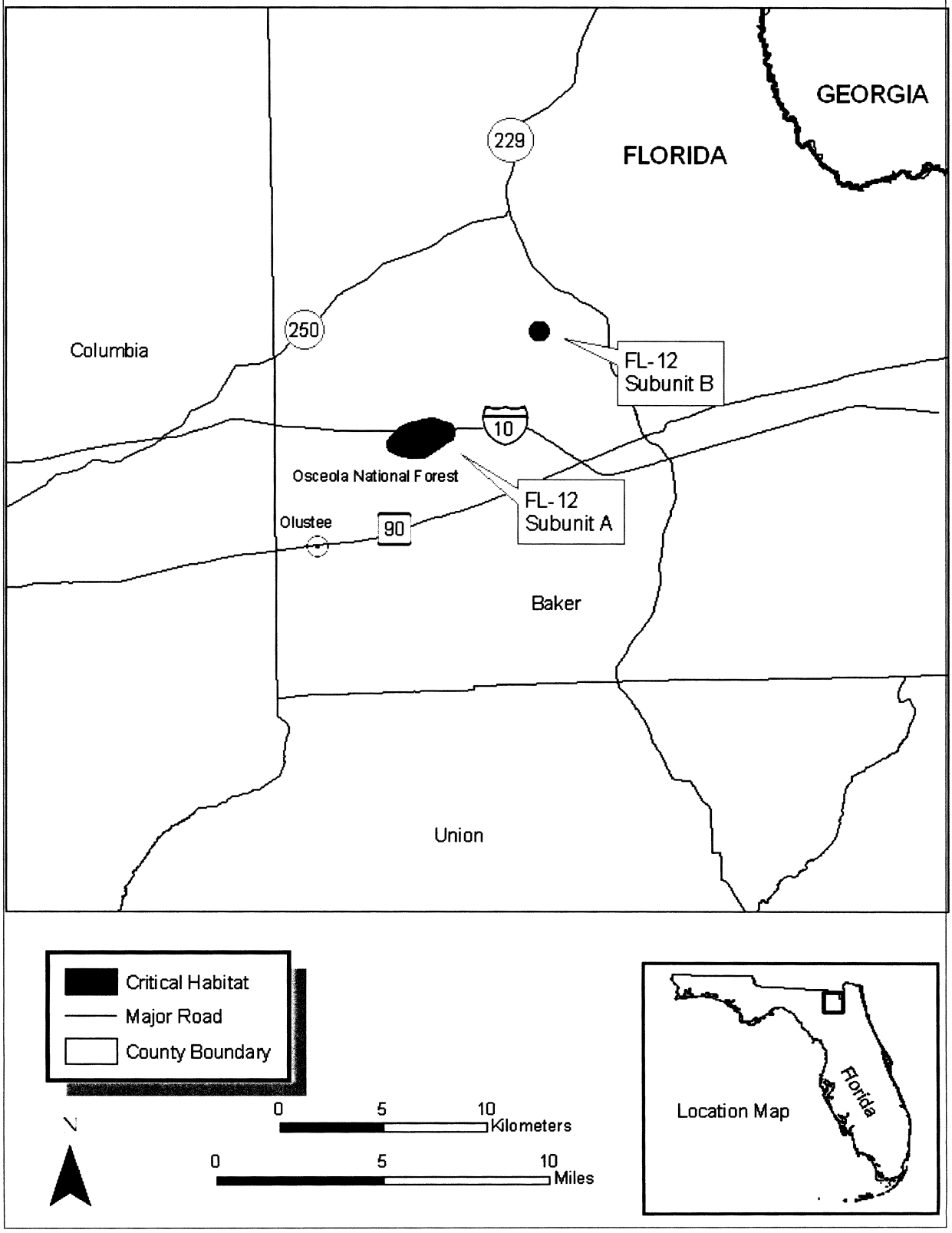
(xxxviii) Unit FL–12, Subunit B: Baker County, Florida. From USGS 1:24,000 scale quadrangle map Sanderson North, Florida.

(A) Land bounded by the following UTM Zone 17N, NAD83 coordinates (E, N): 366810.54, 3347335.55; 365204.92, 3347256.53; 365545.34, 3347671.08; 365785.90, 3347864.83; 366215.16, 3348065.56; 366594.64, 3348161.77; 366950.86, 3348270.32; 367457.49, 3348269.28; 367656.48, 3348217.24; 367983.80, 3348114.94; 368263.73, 3348002.09; 368367.03, 3347893.69; 368445.29, 3347727.16; 368438.75, 3347468.74; 368362.16, 3347235.59; 368183.75, 3347169.56; 367774.48, 3346827.27; 367344.33, 3346591.29; 366962.47, 3346401.11; 366361.04, 3346381.04; 365915.66, 3346474.56; 365542.12, 3346613.29; 365216.87, 3346797.82; 365176.32, 3347057.43; 365204.92, 3347256.53.

(B) Map of Unit FL–12 (Map 9) follows:

BILLING CODE 4310–55–P

Map 9. Flatwoods Salamander Proposed Critical Habitat Unit FL-12



BILLING CODE 4310–55–C

(7) Georgia: Baker and Miller Counties, Georgia.

(i) Unit GA–1, Subunit A: Miller County, Georgia. From USGS 1:24,000 scale quadrangle map Donalsonville NE, Georgia.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 709773.06, 3456290.97; 709801.78, 3456290.64; 709830.43, 3456288.51; 709858.89, 3456284.58; 709887.04, 3456278.87; 709914.78, 3456271.41; 709942.00, 3456262.22; 709968.58, 3456251.34; 709994.43, 3456238.81; 710019.45, 3456224.68; 710043.52, 3456209.01; 710066.57, 3456191.86; 710088.49, 3456173.30; 710109.20, 3456153.39; 710128.62, 3456132.23; 710146.68, 3456109.89; 710163.30, 3456086.45; 710178.41, 3456062.02; 710191.96, 3456036.69; 710203.89, 3456010.56; 710214.16, 3455983.73; 710222.72, 3455956.31; 710229.54, 3455928.41; 710234.60, 3455900.13; 710237.88, 3455871.59; 710239.35, 3455842.91; 710239.02, 3455814.18; 710236.89, 3455785.53; 710232.96, 3455757.08; 710227.25, 3455728.92; 710219.79, 3455701.18; 710210.60, 3455673.97; 710199.72, 3455647.38; 710187.19, 3455621.53; 710173.06, 3455596.52; 710157.39, 3455572.44; 710140.24, 3455549.40; 710121.68, 3455527.48; 710101.77, 3455506.76; 710080.61, 3455487.34; 710058.27, 3455469.29; 710034.83, 3455452.67; 710010.40, 3455437.56; 709985.07, 3455424.01; 709958.94, 3455412.08; 709932.11, 3455401.81; 709904.69, 3455393.25; 709876.79, 3455386.42; 709848.51, 3455381.36; 709819.97, 3455378.09; 709791.29, 3455376.62; 709762.56, 3455376.95; 709733.91, 3455379.08; 709705.46, 3455383.01; 709677.30, 3455388.71; 709649.56, 3455396.18; 709622.35, 3455405.37; 709595.76, 3455416.25; 709569.91, 3455428.78; 709544.90, 3455442.90; 709520.82, 3455458.57; 709497.78, 3455475.73; 709475.86, 3455494.29; 709455.15, 3455514.19; 709435.72, 3455535.36; 709417.67, 3455557.70; 709401.05, 3455581.13; 709385.94, 3455605.56; 709372.39, 3455630.89; 709360.46, 3455657.02; 709350.19, 3455683.85; 709341.63, 3455711.27; 709334.80, 3455739.18; 709329.75, 3455767.45; 709326.47, 3455795.99; 709325.00, 3455824.68; 709325.33, 3455853.40; 709327.46, 3455882.05; 709331.39, 3455910.51; 709337.10, 3455938.66; 709344.56, 3455966.40; 709353.75, 3455993.62; 709364.63, 3456020.20; 709377.16, 3456046.05; 709391.29, 3456071.07; 709406.96, 3456095.14; 709424.11, 3456118.19; 709442.67, 3456140.11; 709462.57, 3456160.82; 709483.74, 3456180.24; 709506.08, 3456198.30; 709529.51, 3456214.92; 709553.94, 3456230.03; 709579.27, 3456243.58; 709605.40, 3456255.51; 709632.23, 3456265.78; 709659.65, 3456274.34; 709687.56, 3456281.16; 709715.83, 3456286.22; 709744.37, 3456289.49; 709773.06, 3456290.97.

(B) Map depicting Unit GA–1, Subunit A is provided at paragraph (7)(iii)(B) of this entry.

(ii) Unit GA–1, Subunit B: Baker County, Georgia. From USGS 1:24,000 scale quadrangle map Bethany, Georgia.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 734056.66, 3462652.99; 733733.16, 3462635.49; 733657.95, 3462793.17; 733648.02, 3462832.82; 733696.56, 3462842.99; 733735.88, 3462866.21; 733795.54, 3462792.40; 733840.01, 3462789.15; 733937.93, 3463111.13; 734037.50, 3463371.05; 734205.36, 3463566.26; 734222.15, 3463602.19; 734311.08, 3463595.69; 734536.48, 3463464.20; 734670.71, 3463423.43; 734774.12, 3463372.96; 734944.36, 3463146.86; 735033.71, 3462958.51; 735083.26, 3462764.67; 735044.83, 3462541.86; 734972.52, 3462424.61; 734940.00, 3462312.85; 734887.73, 3462275.97; 734817.60, 3462243.05; 734637.25, 3462349.13; 734460.51, 3462486.35; 734437.39, 3462521.21; 734056.66, 3462652.99.

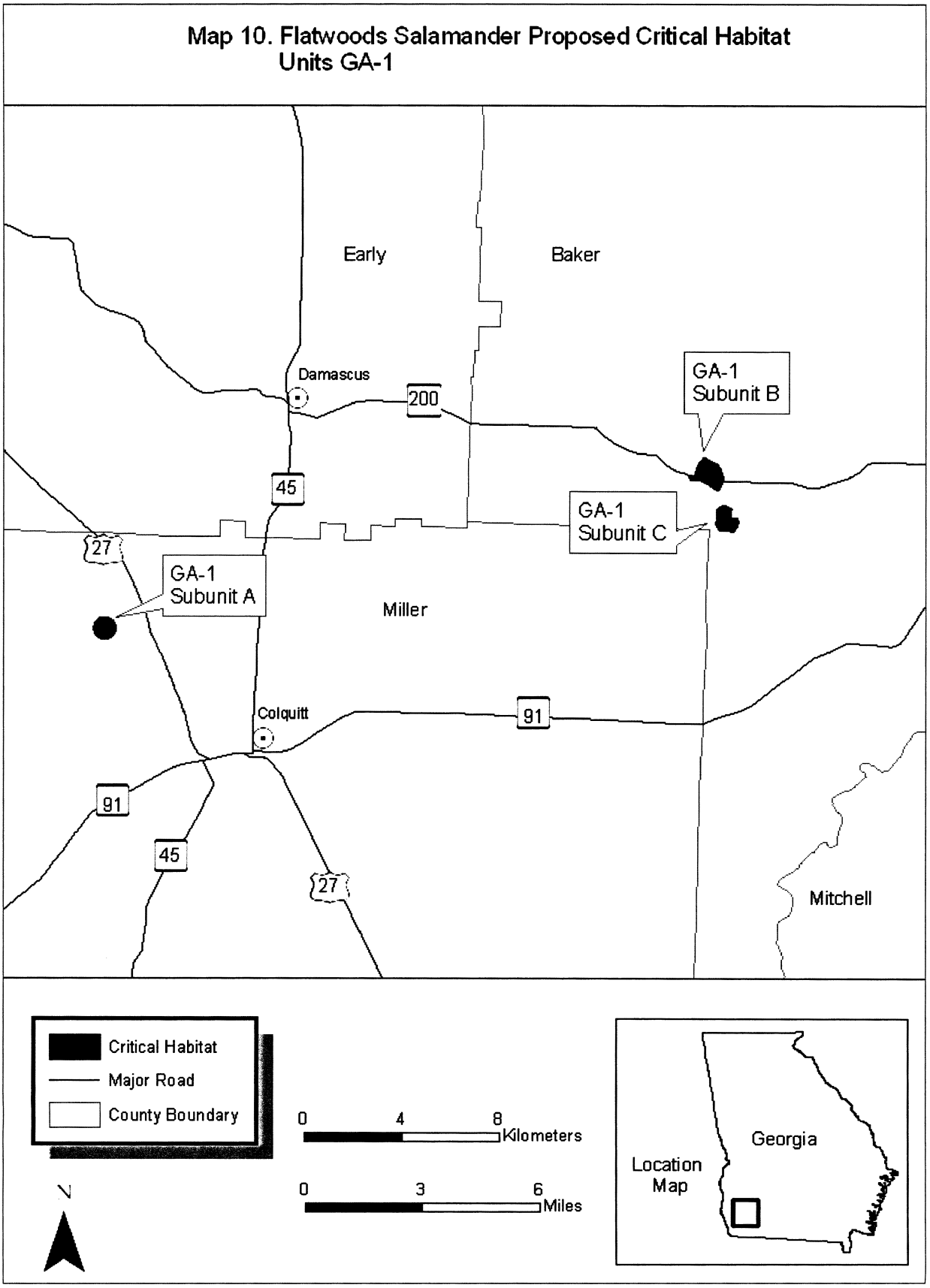
(B) Map depicting Unit GA–1, Subunit B is provided at paragraph (7)(iii)(B) of this entry.

(iii) Unit GA–1, Subunit C: Baker County, Georgia. From USGS 1:24,000 scale quadrangle map Bethany, Georgia.

(A) Land bounded by the following UTM Zone 16N, NAD83 coordinates (E, N): 735020.92, 3461631.51; 735054.62, 3461643.75; 735171.74, 3461646.88; 735327.96, 3461601.92; 735452.49, 3461469.20; 735420.30, 3461400.33; 735416.42, 3461404.00; 735438.69, 3461136.30; 735487.70, 3461141.39; 735586.24, 3461132.68; 735699.79, 3461128.15; 735734.35, 3460966.58; 735712.03, 3460811.06; 735690.67, 3460761.36; 735521.91, 3460567.92; 735439.40, 3460543.04; 735388.67, 3460602.15; 734961.33, 3460605.87; 734874.08, 3460758.47; 734820.12, 3460938.41; 734829.24, 3461021.79; 734828.08, 3461206.92; 734832.72, 3461316.63; 734845.31, 3461411.44; 734906.82, 3461515.10; 735020.92, 3461631.51.

(B) Map of Unit GA–1 (Map 10) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(8) South Carolina: Berkeley, Charleston, and Jasper Counties, South Carolina.

(i) Unit SC–1: Jasper County, South Carolina. From USGS 1:24,000 scale quadrangle map Limehouse, South Carolina.

(A) Land bounded by the following UTM Zone 17N, NAD83 coordinates (E, N): 489561.94, 3573503.59; 489453.58, 3573970.39; 489507.35, 3573975.17; 489561.29, 3573977.32; 489615.28, 3573976.84; 489669.17, 3573973.72; 489722.85, 3573967.97; 489813.22, 3573903.16; 489904.81, 3573840.10; 489926.27, 3573824.52; 489946.02, 3573806.80; 489963.82, 3573787.14; 489979.50, 3573765.74; 489992.88, 3573742.83; 490003.82, 3573718.67; 490012.20, 3573693.50; 490017.94, 3573667.60; 490016.20, 3573652.66; 490013.19, 3573637.92; 490015.98, 3573632.12; 490025.87, 3573604.58; 490032.87, 3573576.16; 490036.91, 3573547.18; 490037.03, 3573543.60; 490041.81, 3573520.55; 490043.92, 3573497.11; 490043.41, 3573474.57; 490040.43, 3573452.23; 490035.01, 3573430.36; 490027.22, 3573409.21; 490026.77, 3573385.43; 490023.98, 3573361.81; 490018.89, 3573338.58; 490011.54, 3573315.96; 490002.00, 3573294.17; 489990.37, 3573273.42; 489980.99, 3573259.55; 489970.67, 3573246.37; 489959.67, 3573227.66; 489937.65, 3573195.84; 489913.35, 3573165.71; 489886.91, 3573137.45; 489858.47, 3573111.20; 489828.18, 3573087.11; 489796.21, 3573065.31; 489762.72, 3573045.91; 489727.90, 3573029.02; 489644.36, 3573024.70; 489560.73, 3573022.61; 489477.08, 3573022.74; 489393.46, 3573025.11; 489359.85, 3573040.41; 489327.69, 3573058.58; 489297.23, 3573079.47; 489268.70, 3573102.92; 489242.31, 3573128.76; 489218.27, 3573156.80; 489196.75, 3573186.82; 489177.92, 3573218.59; 489161.92, 3573251.88; 489148.87, 3573286.44; 489138.87, 3573321.99; 489085.29, 3573601.84; 489092.79, 3573641.38; 489103.20, 3573680.27; 489116.45, 3573718.27; 489132.48, 3573755.19; 489151.20, 3573790.83; 489172.50, 3573824.98; 489196.26, 3573857.47; 489214.53, 3573880.49; 489235.17, 3573901.42; 489257.94, 3573920.01; 489282.57, 3573936.04; 489308.78, 3573949.34; 489336.26, 3573959.75; 489364.71, 3573967.15; 489393.78, 3573971.44; 489423.15, 3573972.59; 489452.47, 3573970.58; 489453.58, 3573970.39.

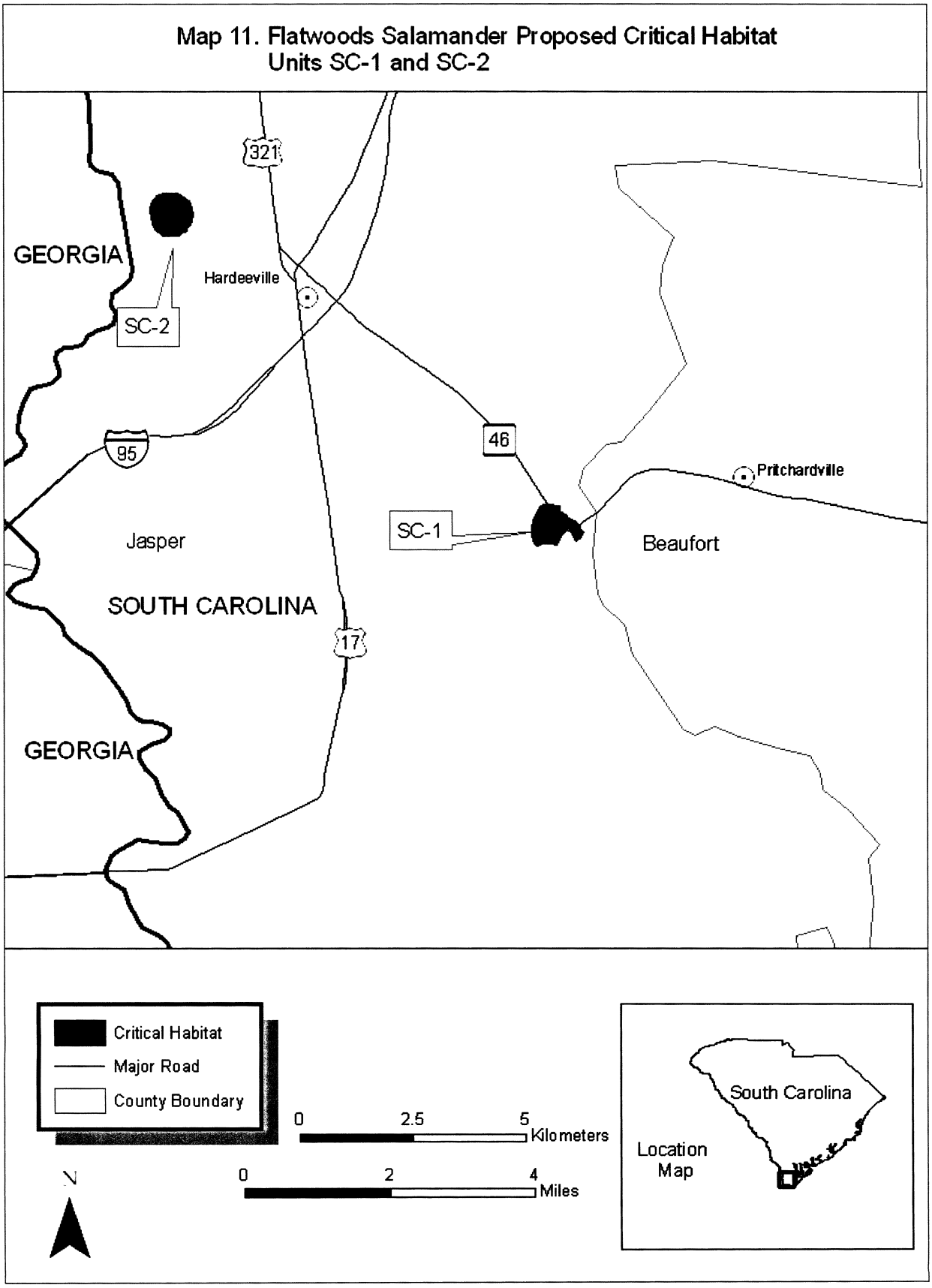
(B) Map depicting Unit SC–1 is provided at paragraph (8)(ii)(B) of this entry.

(ii) Unit SC–2: Jasper County, South Carolina. From USGS 1:24,000 scale quadrangle map Hardeeville, South Carolina.

(A) Land bounded by the following UTM Zone 17N, NAD83 coordinates (E, N): 497825.00, 3566333.83; 497635.59, 3566801.87; 497712.84, 3566808.12; 497984.07, 3566781.17; 497985.26, 3566663.24; 498153.12, 3566557.50; 498167.76, 3566492.09; 498352.14, 3566398.14; 498426.93, 3566302.81; 498448.59, 3566192.51; 498512.79, 3566162.48; 498461.55, 3566058.02; 498346.32, 3565991.72; 498237.70, 3566197.65; 498174.59, 3566272.37; 498083.20, 3566185.16; 498003.97, 3566097.65; 497922.07, 3565900.43; 497748.68, 3565948.43; 497683.38, 3565948.65; 497599.14, 3565928.51; 497467.56, 3565899.32; 497376.85, 3566007.25; 497361.27, 3566156.01; 497363.83, 3566261.26; 497404.53, 3566478.19; 497468.92, 3566622.98; 497536.88, 3566747.36; 497635.59, 3566801.87.

(B) Map of Units SC–1 and SC–2 (Map 11) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(iii) Unit SC–3: Berkeley County, South Carolina. From USGS 1:24,000 scale quadrangle map Cainhoy, South Carolina.

(A) Land bounded by the following UTM Zone 17N, NAD83 coordinates (E, N): 611583.13, 3649078.75; 611126.05, 3649075.08; 611126.72, 3649103.79; 611129.20, 3649132.40; 611133.46, 3649160.79; 611139.50, 3649188.87; 611147.29, 3649216.50; 611156.80, 3649243.60; 611167.99, 3649270.04; 611180.82, 3649295.73; 611195.24, 3649320.57; 611211.19, 3649344.44; 611228.61, 3649367.27; 611247.42, 3649388.97; 611267.57, 3649409.43; 611288.95, 3649428.59; 611311.50, 3649446.38; 611335.12, 3649462.71; 611359.72, 3649477.52; 611385.20, 3649490.76; 611411.46, 3649502.38; 611438.40, 3649512.32; 611465.91, 3649520.55; 611493.88, 3649527.04; 611522.20, 3649531.76; 611550.77, 3649534.69; 611579.46, 3649535.83; 611608.17, 3649535.15; 611636.78, 3649532.68; 611665.17, 3649528.42; 611693.25, 3649522.38; 611720.88, 3649514.59; 611747.98, 3649505.08; 611774.42, 3649493.89; 611800.11, 3649481.05; 611824.94, 3649466.64; 611848.82, 3649450.69; 611871.65, 3649433.27; 611893.34, 3649414.45; 611913.81, 3649394.31; 611932.97, 3649372.93; 611950.75, 3649350.38; 611967.08, 3649326.76; 611981.90, 3649302.16; 611995.14, 3649276.68; 612006.75, 3649250.42; 612016.70, 3649223.48; 612024.93, 3649195.97; 612031.42, 3649168.00; 612036.14, 3649139.67; 612039.07, 3649111.11; 612040.20, 3649082.41; 612039.53, 3649053.71; 612037.06, 3649025.10; 612032.79, 3648996.70; 612026.75, 3648968.63; 612018.96, 3648940.99; 612009.45, 3648913.89; 611998.26, 3648887.45; 611985.43, 3648861.76; 611971.01, 3648836.93; 611955.06, 3648813.05; 611937.64, 3648790.22; 611918.83, 3648768.53; 611898.69, 3648748.06; 611877.30, 3648728.90; 611854.75, 3648711.12; 611831.13, 3648694.79; 611806.53, 3648679.97; 611781.05, 3648666.73; 611754.79, 3648655.12; 611727.85, 3648645.17; 611700.34, 3648636.94; 611672.37, 3648630.45; 611644.05, 3648625.73; 611615.48, 3648622.80; 611586.79, 3648621.67; 611558.08, 3648622.34; 611529.47, 3648624.81; 611501.08, 3648629.08; 611473.01, 3648635.12; 611445.37, 3648642.91; 611418.27, 3648652.42; 611391.83, 3648663.61; 611366.14, 3648676.44; 611341.31, 3648690.86; 611317.43, 3648706.81; 611294.60, 3648724.23; 611272.91, 3648743.04; 611252.44, 3648763.18; 611233.28, 3648784.57; 611215.50, 3648807.12; 611199.17, 3648830.74; 611184.35, 3648855.33; 611171.11, 3648880.81; 611159.50, 3648907.08; 611149.56, 3648934.01; 611141.32, 3648961.52; 611134.84, 3648989.50; 611130.12, 3649017.82; 611127.18, 3649046.39; 611126.05, 3649075.08; 612161.25, 3649359.52; 612163.72, 3649388.16; 612167.98, 3649416.48; 612174.02, 3649444.61; 612181.83, 3649472.19; 612191.34, 3649499.36; 612202.53, 3649525.77; 612215.32, 3649551.42; 612229.80, 3649576.31; 612245.70, 3649600.22; 612263.20, 3649623.04; 612281.92, 3649644.65; 612302.15, 3649665.18; 612323.53, 3649684.27; 612346.03, 3649702.16; 612369.68, 3649718.40; 612394.27, 3649733.20; 612419.73, 3649746.47; 612446.05, 3649758.08; 612472.94, 3649768.03; 612500.42, 3649776.33; 612528.38, 3649782.75; 612556.74, 3649787.51; 612585.30, 3649790.39; 612613.98, 3649791.60; 612622.86, 3649791.37; 612622.46, 3649801.79; 612623.16, 3649830.52; 612625.63, 3649859.15; 612629.89, 3649887.48; 612635.92, 3649915.60; 612643.74, 3649943.19; 612653.24, 3649970.35; 612664.43, 3649996.76; 612677.31, 3650022.41; 612691.70, 3650047.30; 612707.59, 3650071.22; 612725.09, 3650094.04; 612743.91, 3650115.65; 612764.04, 3650136.18; 612785.41, 3650155.27; 612807.92, 3650173.16; 612831.56, 3650189.40; 612856.16, 3650204.21; 612934.82, 3650239.04; 612962.38, 3650247.23; 612990.35, 3650253.76; 613018.61, 3650258.52; 613047.17, 3650261.40; 613075.94, 3650262.51; 613104.64, 3650261.84; 613133.26, 3650259.40; 613161.63, 3650255.18; 613189.73, 3650249.07; 613217.30, 3650241.29; 613244.42, 3650231.85; 613270.90, 3650220.62; 613296.56, 3650207.83; 613321.40, 3650193.37; 613345.22, 3650177.45; 613368.13, 3650159.98; 613389.75, 3650141.15; 613410.26, 3650121.10; 613429.39, 3650099.70; 613447.22, 3650077.06; 613463.56, 3650053.52; 613478.34, 3650028.85; 613491.62, 3650003.39; 613503.23, 3649977.13; 613513.17, 3649950.19; 613521.34, 3649922.68; 613527.83, 3649894.70; 613532.55, 3649866.37; 613535.49, 3649837.79; 613536.66, 3649809.20; 613535.97, 3649780.47; 613533.49, 3649751.83; 613529.24, 3649723.40; 613523.21, 3649695.39; 613515.40, 3649667.68; 613505.90, 3649640.63; 613494.71, 3649614.22; 613481.92, 3649588.46; 613467.44, 3649563.68; 613451.55, 3649539.76; 613434.05, 3649516.94; 613415.24, 3649495.21; 613395.10, 3649474.80; 613373.73, 3649455.59; 613351.23, 3649437.81; 613327.58, 3649421.46; 613302.99, 3649406.65; 613277.53, 3649393.50; 613251.21, 3649381.88; 613224.32, 3649371.93; 613196.84, 3649363.63; 613168.78, 3649357.21; 613140.52, 3649352.44; 613111.95, 3649349.57; 613083.28, 3649348.35; 613074.30, 3649348.58; 613074.70, 3649338.16; 613074.10, 3649309.43; 613071.62, 3649280.80; 613067.37, 3649252.47; 613061.34, 3649224.35; 613053.52, 3649196.76; 613044.02, 3649169.60; 613032.83, 3649143.19; 613019.94, 3649117.54; 613005.56, 3649092.64; 612989.57, 3649068.73; 612972.17, 3649045.91; 612953.35, 3649024.29; 612933.21, 3649003.77; 612911.84, 3648984.67; 612889.33, 3648966.90; 612865.68, 3648950.55; 612841.08, 3648935.74; 612815.63, 3648922.47; 612789.31, 3648910.86; 612762.41, 3648900.91; 612734.93, 3648892.72; 612706.88, 3648886.19; 612678.61, 3648881.43; 612650.04, 3648878.55; 612621.36, 3648877.45; 612592.66, 3648878.11; 612564.03, 3648880.56; 612535.66, 3648884.78; 612507.55, 3648890.89; 612479.89, 3648898.67; 612452.77, 3648908.12; 612426.38, 3648919.35; 612400.72, 3648932.14; 612375.88, 3648946.60; 612351.96, 3648962.52; 612329.14, 3648980.00; 612307.43, 3648998.71; 612287.01, 3649018.88; 612267.79, 3649040.28; 612250.06, 3649062.81; 612233.71, 3649086.47; 612218.85, 3649111.02; 612205.66, 3649136.49; 612194.05, 3649162.86; 612184.12, 3649189.69; 612175.86, 3649217.20; 612169.37, 3649245.18; 612164.66, 3649273.52; 612161.72, 3649302.09; 612160.64, 3649330.80.

(B) Map depicting Unit SC–3 is provided at paragraph (8)(iv)(B) of this entry.

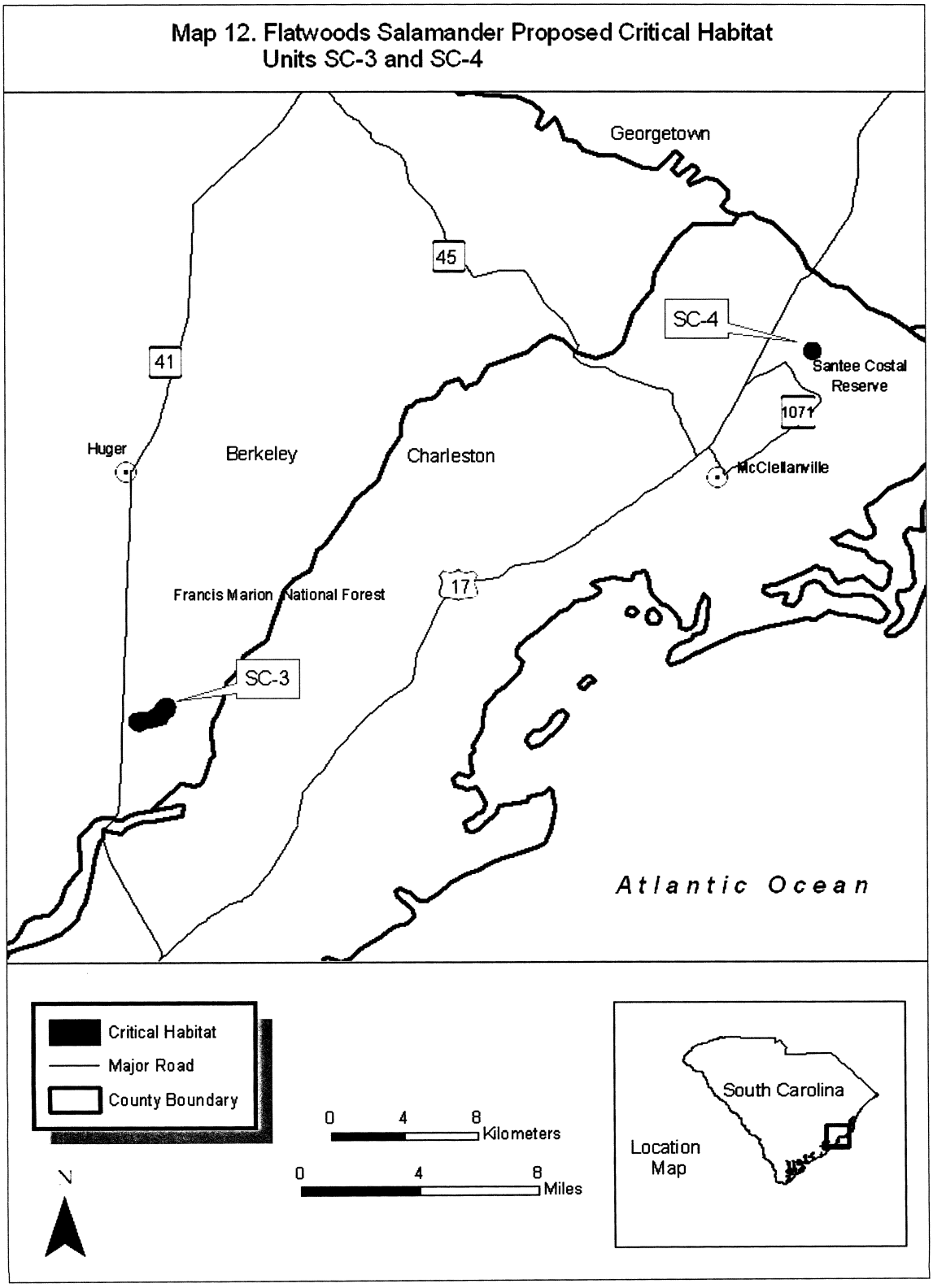
(iv) Unit SC–4: Charleston County, South Carolina. From USGS 1:24,000 quadrangle map Santee, South Carolina.

(A) Land bounded by the following UTM Zone 17N, NAD83 coordinates (E, N): 648576.17, 3668543.24; 648119.03, 3668539.54; 648119.70, 3668568.25; 648122.17, 3668596.86; 648126.43, 3668625.26; 648132.47, 3668653.34; 648140.26, 3668680.98; 648149.77, 3668708.08; 648160.96, 3668734.53; 648173.79, 3668760.22; 648188.21, 3668785.06; 648204.16, 3668808.94; 648221.58, 3668831.78; 648240.40, 3668853.47; 648260.54, 3668873.94; 648281.93, 3668893.11; 648304.48, 3668910.89; 648328.10, 3668927.23; 648352.70, 3668942.05; 648378.18, 3668955.29; 648404.45, 3668966.91; 648431.39, 3668976.86; 648458.90, 3668985.09; 648486.88, 3668991.58; 648515.21, 3668996.30; 648543.78, 3668999.24; 648572.47, 3669000.37; 648601.18, 3668999.70; 648629.80, 3668997.23; 648658.20, 3668992.97; 648686.27, 3668986.93; 648713.92,

3668979.14; 648741.02, 3668969.63; 648767.47, 3668958.44; 648793.16, 3668945.61; 648818.00, 3668931.19; 648841.88, 3668915.24; 648864.71, 3668897.82; 648886.41, 3668879.00; 648906.88, 3668858.86; 648926.05, 3668837.47; 648943.83, 3668814.92; 648960.16, 3668791.30; 648974.98, 3668766.70; 648988.23, 3668741.22; 648999.85, 3668714.96; 649009.79, 3668688.01; 649018.03, 3668660.50; 649024.52, 3668632.52; 649029.24, 3668604.20; 649032.17, 3668575.63; 649033.31, 3668546.93; 649032.64, 3668518.22; 649030.17, 3668489.61; 649025.90, 3668461.21; 649019.87, 3668433.13; 649012.08, 3668405.49; 649002.57, 3668378.39; 648991.37, 3668351.94; 648978.54, 3668326.25; 648964.12, 3668301.41; 648948.17, 3668277.53; 648930.76, 3668254.69; 648911.94, 3668233.00; 648891.80, 3668212.53; 648870.41, 3668193.36; 648847.86, 3668175.58; 648824.24, 3668159.24; 648799.63, 3668144.42; 648774.15, 3668131.18; 648747.89, 3668119.56; 648720.95, 3668109.62; 648693.43, 3668101.38; 648665.46, 3668094.89; 648637.13, 3668090.17; 648608.56, 3668087.23; 648579.86, 3668086.10; 648551.15, 3668086.77; 648522.54, 3668089.24; 648494.14, 3668093.50; 648466.06, 3668099.54; 648438.42, 3668107.33; 648411.32, 3668116.84; 648384.87, 3668128.03; 648359.18, 3668140.86; 648334.34, 3668155.28; 648310.46, 3668171.23; 648287.62, 3668188.65; 648265.93, 3668207.47; 648245.46, 3668227.61; 648226.29, 3668249.00; 648208.50, 3668271.55; 648192.17, 3668295.17; 648177.35, 3668319.77; 648164.11, 3668345.25; 648152.49, 3668371.52; 648142.54, 3668398.46; 648134.31, 3668425.97; 648127.82, 3668453.95; 648123.10, 3668482.28; 648120.16, 3668510.84; 648119.03, 3668539.54.

(B) Map of Units SC–3 and SC–4 (Map 12) follows:

BILLING CODE 4310–55–P



* * * * *

Dated: January 26, 2007.

David M. Verhey,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 07–470 Filed 2–6–07; 8:45 am]

BILLING CODE 4310–55–C

Reader Aids

Federal Register

Vol. 72, No. 25

Wednesday, February 7, 2007

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.gpoaccess.gov/nara/index.html**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives. gov/federal__register**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, FEBRUARY

4615–4942 1
4943–5148 2
5149–5326 5
5327–5594 6
5595–5912 7

CFR PARTS AFFECTED DURING FEBRUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR
Ch. XXV 4943

3 CFR
Proclamations:
8104 5323
Executive Orders:
13396 (See Notice of Feb. 5, 2007) 5593
Administrative Orders:
Memorandums:
Memorandum of January 25, 2007 5149
Notices:
Notice of February 5, 2007 5593

5 CFR
890 5151

7 CFR
301 4945
3550 5153
966 5327
Proposed Rules:
930 5646

8 CFR
Proposed Rules:
103 4888

10 CFR
72 ..... 4615, 5595
73 4945
Proposed Rules:
40 5348
72 ..... 4660, 5348
74 5348
150 5348
170 5108
171 5108

11 CFR
100 5595

12 CFR
611 5606
612 5606
613 5606
614 5606
615 5606
Proposed Rules:
354 5217

13 CFR
123 5607

14 CFR
23 4618
39 ..... 4625, 4633, 4635, 4948, 5157, 5160, 5164
71 ..... 5607, 5608, 5609, 5610, 5611, 5612
97 ..... 4950, 4952
Proposed Rules:
23 4661
39 ..... 4663, 4964, 5359, 5362, 5364
61 5806
91 5806
121 5366
125 5366
135 5366
141 5806

15 CFR
801 ..... 5167, 5169

18 CFR
35 5171
50 5613
157 5614
366 5171
375 5171
380 5613

21 CFR
510 5329
529 5329
558 4954
864 4637
Proposed Rules:
101 5367

22 CFR
126 5614

24 CFR
28 5586
30 5586
81 5586
180 5586
3282 5586
3500 5586

26 CFR
1 ..... 4955, 5174
602 5174
Proposed Rules:
1 5228

29 CFR
1603 5616
1610 5616

30 CFR
943 5330
Proposed Rules:
914 5374
926 5377
938 5380

31 CFR
500 4960

33 CFR

100.....5333
117 .....4961, 5333, 5617
165 .....4639, 5333, 5619
Proposed Rules:
100.....4669
110.....5382

39 CFR

Proposed Rules:
3001.....5230

40 CFR

52.....4641
60.....4641
180 .....4963, 5621, 5624
261.....4645
Proposed Rules:
52 .....4671, 4674, 5232
60.....4674, 5510
80.....4966

42 CFR

Proposed Rules:
412.....4776, 5507
413.....4776, 5507

44 CFR

64.....5630
67.....5197
Proposed Rules:
67.....5239, 5247

45 CFR

620.....4943
689.....4943

46 CFR

296.....5342

47 CFR

0.....5631
15.....5632

48 CFR

511.....4649
516.....4649
532.....4649
538.....4649
546.....4649
552.....4649
Proposed Rules:
2.....4675
4.....4675
5.....4675
13.....4675

49 CFR

192.....4655
195.....4655
1515.....5632
1540.....5632
1572.....5632
Proposed Rules:
571.....5385
1243.....4676

50 CFR

223.....5633
229.....4657, 5214
404.....5642
622.....5345
635.....5633
648.....5643
679.....5346, 5644
Proposed Rules:
17 .....4967, 5552, 5856
223.....5648
300.....5652
679.....5654
680.....5255

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT FEBRUARY 7, 2007

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Tomatoes grown in Florida; published 2-6-07

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Marine mammals:

Commercial fishing operations—

Atlantic Large Whale Take Reduction Plan; published 2-5-07

Northwestern Hawaiian Islands Marine National Monument; establishment; correction; published 2-7-07

ENVIRONMENTAL PROTECTION AGENCY

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Avermectin; published 2-7-07

Tris (2-ethylhexyl) phosphate; published 2-7-07

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Employment discrimination complaint procedures for previously exempt State and local government employees; published 2-7-07

Organization, functions, and authority delegations:

Newly opened Commission offices; addresses; published 2-7-07

FEDERAL COMMUNICATIONS COMMISSION

Freedom of Information Act; implementation:

Fee schedule; published 2-7-07

FEDERAL ELECTION COMMISSION

Political committee status; supplemental explanation and justification; published 2-7-07

FEDERAL HOUSING FINANCE BOARD

Privacy Act and Freedom of Information Act; implementation; published 1-8-07

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Medical devices:

Reprocessed single-use devices; premarket notification exemptions termination; validation data submission requirement; published 9-25-06

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge operations:

Louisiana; published 1-24-07

INTERIOR DEPARTMENT

Fish and Wildlife Service

Northwestern Hawaiian Islands Marine National Monument; establishment; correction; published 2-7-07

STATE DEPARTMENT

International Traffic in Arms regulations:

Libya and Venezuela; United Sates policy amended; published 2-7-07

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Cherries (tart) grown in Michigan et al.; comments due by 2-15-07; published 1-16-07 [FR E7-00423]

Cranberries grown in Massachusetts, et al.; comments due by 2-15-07; published 1-16-07 [FR E7-00428]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Exportation and importation of animals and animal products:

Horse quarantine facilities, permanent, privately owned; standards; comments due by 2-12-07; published 12-13-06 [FR E6-21032]

Interstate transportation of animals and animal products (quarantine):

Brucellosis in cattle; research facilities; comments due by 2-12-07; published 12-13-06 [FR E6-21172]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Atlantic highly migratory species—

Atlantic commercial shark; comments due by 2-12-07; published 12-14-06 [FR 06-09667]

CONSUMER PRODUCT SAFETY COMMISSION

Consumer Product Safety Act:

Portable generators—

Mandatory performance standards; comments due by 2-12-07; published 12-12-06 [FR E6-21131]

DEFENSE DEPARTMENT

Defense Acquisition Regulations System

Acquisition regulations:

Labor reimbursement on DoD non-commercial time-and-materials and labor-hour contracts; comments due by 2-12-07; published 12-12-06 [FR 06-09602]

DEFENSE DEPARTMENT

Federal Acquisition Regulation (FAR):

Performance-based payments; comments due by 2-12-07; published 12-14-06 [FR 06-09678]

ENERGY DEPARTMENT

Energy Efficiency and Renewable Energy Office

Consumer products; energy conservation program:

Energy conservation standards—

Battery chargers and external power supplies; document availability and public meeting; comments due by 2-16-07; published 12-29-06 [FR E6-22437]

Residential water heaters, direct heating equipment, and pool heaters; comment period extension; comments due by 2-13-07; published 1-30-07 [FR E7-01502]

ENVIRONMENTAL PROTECTION AGENCY

Air pollution; standards of performance for new stationary sources:

Solid waste incineration units; Federal plan requirements; comments due by 2-16-07; published 12-18-06 [FR E6-21285]

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Ohio; comments due by 2-16-07; published 1-17-07 [FR E7-00520]

Air quality implementation plans; approval and promulgation; various States:

Kentucky; comments due by 2-16-07; published 1-17-07 [FR E7-00531]

Nevada; comments due by 2-16-07; published 12-18-06 [FR E6-21500]

West Virginia; comments due by 2-12-07; published 1-12-07 [FR E7-00249]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Clothianidin; comments due by 2-12-07; published 12-13-06 [FR E6-20898]

Nomenclature changes; technical amendment; comments due by 2-12-07; published 12-13-06 [FR E6-21025]

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Connecticut; comments due by 2-12-07; published 1-10-07 [FR E7-00185]

Oklahoma and Texas; comments due by 2-12-07; published 1-10-07 [FR E7-00181]

FEDERAL DEPOSIT INSURANCE CORPORATION

Depository Institution Management Interlocks Act; implementation; comments due by 2-12-07; published 1-11-07 [FR 07-00079]

FEDERAL RESERVE SYSTEM

Depository Institution Management Interlocks Act; implementation; comments due by 2-12-07; published 1-11-07 [FR 07-00079]

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Regulation (FAR):

Performance-based payments; comments due by 2-12-07; published 12-14-06 [FR 06-09678]

HOMELAND SECURITY DEPARTMENT

Acquisition regulations:

Revisions; comments due by 2-12-07; published 1-11-07 [FR 07-00061]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 475/P.L. 110–2

House Page Board Revision Act of 2007 (Feb. 2, 2007; 121 Stat. 4)

Last List January 22, 2007

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.